

Request Details

Request Type : FOIA

Status : Initial Evaluation Due Date : N/A

0 (Never Started)

**Request Details**

Tracking Number : DON-NAVY-2018-002707
Requester : Robert Hammond
Organization : N/A
Requester Has Account : No
Email Address : (b) (6) @aol.com
Phone Number : N/A
Fax Number : N/A
Address : (b) (6)
City : (b) (6)
State/Province : (b) (6)
Zip Code/Postal Code : (b) (6)

Submitted Date : 12/29/2017
Last Assigned Date : 12/29/2017
Fee Limit : \$50.00
Request Track : Simple
Due Date : N/A
Assigned To : Chief of Naval Operations
Last Assigned By : N/A

Submission Details**Case File****Admin Cost****Assigned Tasks****Comments (0)****Review****Request Handling**

Requester Info Available to the Public : No
Request Track : Simple
Fee Category : Other
Fee Waiver Requested: Yes
Fee Waiver Status: Pending Decision
Expedited Processing Requested: No
Expedited Processing Status : N/A

Request Perfected : No
Appellate Authority : OJAG14
Acknowledgement Sent Date : 12/29/17
Unusual Circumstances ? : No
5 Day Notifications : r
Litigation : No

Request Description**Short Description :****Communications regarding Requester**

I am respectfully seeking for your Command: 1. Any and all records of communication from August 11, 2017 to present sent by any member DON FOIA/PA team referencing requester Robert Hammond or email (b) (6) and any of responses thereto received by DON FOIA/PA Office. Such communications may be by email, fax, phone call, letter or other means. 2. I am also requesting that a copy of this FOIA Request (which is an agency record) be included as a responsive record integral to my Request.

Description Available to the Public : No

Has Description Been Modified?


486/2000

I am respectfully seeking for your Command: 1. Any and all records of communication from August 11, 2017 to present sent by any member DON FOIA/PA team referencing requester Robert Hammond or email (b)(6) and any of responses thereto received by DON FOIA/PA Office. Such communications may be by email, fax, phone call, letter or other means. 2. I am also requesting that a copy of this FOIA Request (which is an agency record) be included as a responsive record integral to my Request.

Additional Information

Case # :

Name of Local Command :

Contract/Sol.# :
Limit Request To Clearly Releasable Info : Select Limit Request To Clearly Releasable Info 

Attached Supporting Files

No supporting files have been added.

Upload Supporting Files

No attachments have been added.

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Wednesday, September 06, 2017 6:13 AM
To: (b) (6) CIV USN BUMED FCH VA (US)
Subject: Hammond FOIA

Importance: High

Good morning.

Can you please send me the data for the Hammond FOIA--my response is due today.

v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste (b) (6)
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil

FOR OFFICIAL USE ONLY (FOUO) - PRIVACY SENSITIVE. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Tuesday, November 28, 2017 9:56 AM
To: Strong, Richard R CIV USN DNS (US)
Subject: FW: [Non-DoD Source] FOIA DON 18-O - Walter Reed FY 2012 Annual FOIA Report Submission as received by BUMED
Attachments: DON 18-O; BUMED- WRNMMC Unredacted FOIA Report with enclosures.pdf

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste (b) (6)
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil

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-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]
Sent: Sunday, November 26, 2017 8:58 AM
To: Garcia, Della W CIV USN BUMED FCH VA (US); (b) (6) @mail.mil; Garcia, Della W CIV USN BUMED FCH VA (US)
Subject: [Non-DoD Source] FOIA DON 18-O - Walter Reed FY 2012 Annual FOIA Report Submission as received by BUMED

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

RobertHammond

(b) (6)
(b) (6) @aol.com

November 26, 2017
FOIA OFFICER
DEPARTMENT OF THE NAVY

BUREAU OF MEDICINE AND SURGERY (BUMED)
7700 ARLINGTON BOULEVARD
FALLS CHURCH, VA 22042
(b) (6) @med.navy.mil

Subject: FOIA Request – Walter Reed FY 2012 Annual FOIA Report Submission as received by BUMED

Requester Personal Reference Number: FOIA DON 18-O

<Caution-file:///C:/Users/Bob/AppData/Local/Temp/msohtmlclip1/01/clip_image001.png> References: <Caution-file:///C:/Users/Bob/AppData/Local/Temp/msohtmlclip1/01/clip_image001.png> (a) The Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., as amended,
(b) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
(c) The Privacy Act ("PA") of 1974, 5 U.S.C. § 552a, et seq., as amended (d) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(e) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program (f) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(g) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation
(i) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act
(j) Department of Justice Handbook for Agency Annual Freedom of Information Act Reports

Dear Ms. Garcia:

This is a FOIA request, not an appeal.

This Request will be ripe for judicial review in twenty working days.

I am submitting this request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., as amended. If you deny all or any part of this request, please cite each specific exemption you think justifies your decision not to release the information and notify me of appeal procedures available under the law. References cited above apply.

RECORDS SOUGHT VIA FOIA.

I am respectfully seeking all records in NAVSEA possession related to:

- a. An unredacted copy of Walter Reed's FY 2012 Annual FOIA Report submission records as received by BUMED, to include the forwarding correspondence thereof. Please see Enclosure A
- b. Note that the email addresses of Della Garcia (BUMED) and Judy Bizzell (Walter Reed (WRNMMC)) have been released into the public domain countless times with regard to their FOIA duties. See Enclosure B
- c. Also, there is no privacy exemption with regard to public employees in their official capacities.
2. Records indicating how BUMED reported my FOIA Request at Enclosure A in BUMED's FY 2014 and subsequent FOIA Reports via BUMED's Reporting Chain.
3. I am also requesting that a copy of this FOIA Request (which is an agency record) be included as a responsive record integral to my Request.

Requested Format. I am respectfully requesting that documents be provided as a single PDF file by return email

Agreement to Pay Fees. I agree to pay fees for searching or copying the records up to \$150. If the fees exceed this amount please advise me of the cost before proceeding. I do not believe that there should be any charge for providing these records, as there is public interest in government operations. I am a private individual not seeking documents for commercial use, such that the following applies: "No fees may be charged by any DoD Component if the costs of routine

collection and processing of the fee are likely to equal or exceed the amount of the fee. With the exception of requesters seeking documents for a commercial use, Components shall provide the first two hours of search time, and the first one hundred pages of duplication without charge." I would note that because I am requesting a PDF file, there should not be a per page copy fee.

PUBLIC INTEREST. The subject of the requested records concerns "the operations or activities of the government." The disclosure is "likely to contribute" to an understanding of government operations or activities. There is no commercial interest. There is significant public interest in Privacy Act reporting to Congress.

PRESERVATION OF RECORDS AND SEARCHES PERFORMED. Please preserve all responsive or potentially responsive records and records of your searches in your FOIA case file until the statutory date for judicial review has passed (should that be necessary) or in accordance with a NARA approved records schedule, if longer. Records of responsive searches would include but not be limited to: searches conducted for each specific record sought and all other records known to the Agency, including dates, manner of searching, responsible agent or employee conducting each search and the results thereof.

Civilian Employees Information Specifically Authorized for Release

The following information is specifically authorized for release under the Department of Defense Privacy Program by reference (b) and is not exempt under FOIA exemption (b)(6):

DoD 5400.11-R, May 14, 2007, DoD Privacy Act Program:

C4. CHAPTER 4

DISCLOSURE OF PERSONAL INFORMATION TO OTHER AGENCIES AND THIRD PARTIES C4.1. CONDITIONS OF DISCLOSURE

[Intervening text omitted] C4.2. NON-CONSENSUAL CONDITIONS OF DISCLOSURES [Intervening text omitted]

C4.2.2. Disclosures Required by FOIA C4.2.2.1. All records must be disclosed if their release is required by Reference (p), as implemented by Reference (d). The FOIA requires that records be made available to the public unless withholding is authorized pursuant to one of nine exemptions or one of three law enforcement exclusions under the Act.

[Intervening text omitted]

C4.2.2.5.1. DoD Civilian Employees

C4.2.2.5.1.1. Some examples of personal information regarding DoD civilian employees that normally may be released without a clearly unwarranted invasion of personal privacy include:

C4.2.2.5.1.1.1. Name.

C4.2.2.5.1.1.2. Present and past position titles.

C4.2.2.5.1.1.3. Present and past grades.

C4.2.2.5.1.1.4. Present and past annual salary rates.

C4.2.2.5.1.1.5. Present and past duty stations.

C4.2.2.5.1.1.6. Office and duty telephone numbers.

C4.2.2.5.1.1.7. Position Descriptions.

C4.2.2.5.1.2. All disclosures of personal information regarding Federal civilian employees shall be made in accordance with OPM release policies.

LEGAL FRAMEWORK OF FOIA

1. The definition of "records" includes:

"[A]ll books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them." 44 U.S.C. § 3301 (emphasis supplied).

2. FOIA requires that "each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person" 5 U.S.C. § 552(a)(3)(A).
3. FOIA requires that "each agency shall establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request" 5 U.S.C. § 552(a)(7)(A).
4. FOIA requires that each agency shall "establish a telephone line or Internet service that provides information about the status of a request to the person making the request using the assigned tracking number, including the date on which the agency originally received the request; and an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).
5. FOIA also requires federal agencies to make a final determination on FOIA administrative appeals that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal, unless the agency expressly provides notice to the requester of "unusual circumstances" meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(ii).
6. FOIA expressly provides that a person shall be deemed to have constructively exhausted their administrative remedies if the agency fails to comply with the applicable time limitations provided by 5 U.S.C. § 552(a)(6)(A)(i)-(ii). See also 5 U.S.C. § 552(a)(6)(C).
7. FOIA provides that any person who has not been provided the records requested pursuant to FOIA, after exhausting their administrative remedies, may seek legal redress from the Federal District Court to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.
8. Regarding the names of the FOIA requesters, the courts have held that under the FOIA requesters do not have an expectation of privacy. *Stauss v. IRS*, 516 F.Supp. 1218, 1223 (D.D.C. 1981),
9. Under FOIA, the federal agency has the burden of sustaining its actions. 5 U.S.C. § 552(a)(4)(B).
10. Pursuant to FOIA, a Court may assess attorney fees and litigation costs against the United States if the Plaintiff prevails in an action thereunder. 5 U.S.C. § 552(a)(4)(E).
11. Department of Justice (DOJ) has issued a handbook addressing FOIA Annual Reports. See DOJ, Handbook for Agency Annual Freedom of Information Act Reports, "Disposition of FOIA Requests," (available at http://www.justice.gov/sites/default/files/oip/pages/attachments/2014/11/04/departments_of_justice_handbook_for_agency_annual_freedom_of_information_act_reports.pdf < Caution-
http://www.justice.gov/sites/default/files/oip/pages/attachments/2014/11/04/departments_of_justice_handbook_for_agency_annual_freedom_of_information_act_reports.pdf >) ("DOJ Handbook").
12. Among other things, the DOJ Handbook states, "All requests (perfected and non-perfected), appeals, and consultations that were pending at any time during the relevant fiscal year [October 1st through September 30th] will be captured."
13. The DOJ Handbook also states:
"[E]ach agency is ultimately responsible for the accuracy and completeness of its Annual FOIA Report. It is therefore essential for agencies to take steps that will ensure that they are adequately tracking all of the information necessary to complete the Annual FOIA Report sections detailed below. Agencies that utilize a tracking or case management system for this purpose are responsible for ensuring that the system they are using can produce an accurate Annual FOIA Report that is in compliance with the law and Department of Justice guidance." DOJ Handbook, at 3.

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request. If you deem that any portion of my request is unclear, answer the remaining portions and I will perfect a request for additional material as needed.

Thank you very much in advance.

With my respect,

Robert Hammond

Robert Hammond

(b) (6)

(b) (6)

@aol.com

November 26, 2017

FOIA OFFICER
DEPARTMENT OF THE NAVY
BUREAU OF MEDICINE AND SURGERY (BUMED)
7700 ARLINGTON BOULEVARD
FALLS CHURCH, VA 22042
(b) (6) @med.navy.mil

Subject: FOIA Request – Walter Reed FY 2012 Annual FOIA Report Submission as received by
BUMED

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CIVILIAN EMPLOYEES INFORMATION SPECIFICALLY AUTHORIZED FOR RELEASE

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DISCLOSURE OF PERSONAL INFORMATION TO OTHER AGENCIES AND
THIRD PARTIES

C4.1. CONDITIONS OF DISCLOSURE

[Intervening text omitted]

C4.2. NON-CONSENSUAL CONDITIONS OF DISCLOSURES

[Intervening text omitted]

C4.2.2. Disclosures Required by FOIA

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3. FOIA requires that “each agency shall establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request” 5 U.S.C. § 522(a)(7)(A).

4. FOIA requires that each agency shall “establish a telephone line or Internet service that provides information about the status of a request to the person making the request using the assigned tracking number, including the date on which the agency originally received the request; and an estimated date on which the agency will complete action on the request. 5 U.S.C. § 522(a)(7)(B).

5. FOIA also requires federal agencies to make a final determination on FOIA administrative appeals that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal, unless the agency expressly provides notice to the requester of “unusual circumstances” meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(ii).

6. FOIA expressly provides that a person shall be deemed to have constructively exhausted their administrative remedies if the agency fails to comply with the applicable time limitations provided by 5 U.S.C. § 552(a)(6)(A)(I) - (ii). See also 5 U.S.C. § 552(a)(6)(C).

7. FOIA provides that any person who has not been provided the records requested pursuant to FOIA, after exhausting their administrative remedies, may seek legal redress from the Federal District Court to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.

8. Regarding the names of the FOIA requesters, the courts have held that under the FOIA requesters do not have an expectation of privacy. *Stauss v. IRS*, 516 F. Supp. 1218, 1223 (D.D.C. 1981),

9. Under FOIA, the federal agency has the burden of sustaining its actions. 5 U.S.C. § 552(a)(4)(B).

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11. Department of Justice (DOJ) has issued a handbook addressing FOIA Annual Reports. See DOJ, Handbook for Agency Annual Freedom of Information Act Reports, “Disposition of FOIA Requests,” (available at http://www.justice.gov/sites/default/files/oip/pages/attachments/2014/11/04/department_of_justice_handbook_for_agency_annual_freedom_of_information_act_reports.pdf) (“DOJ Handbook”).

12. Among other things, the DOJ Handbook states, “All requests (perfected and non-perfected), appeals, and consultations that were pending at any time during the relevant fiscal year [October 1st through September 30th] will be captured.”

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Annual FOIA Report that is in compliance with the law and Department of Justice guidance.”
DOJ Handbook, at 3.

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request. If you deem that any portion of my request is unclear, answer the remaining portions and I will perfect a request for additional material as needed.

Thank you very much in advance.

With my respect,

(b) (6)

Robert Hammond

ENCLOSURE A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
#12-01	10/13/2011	Cid Standifer/ Military Times	Digital copy of patient discharge statistics - 2000 thru 2010	Public Affairs/ Out Patience Correspondence	10/26/2011	11/8/2011	10/17/2011	12/8/2011	Closed 12/08/2011 by requester without responsive docs. Tele Con to requester shows that the docs were received thru alternate channels	N/A
#12-02	9/29/2011	Dept of Health and Human Services (survey #1039350)	Pharmacy and Billing Information for: [REDACTED]	CHCS/ AHLTA	10/31/2011			11/01/2011	Closed 11/1/2011. Spoke with [REDACTED] (SIA). Granted per signed request of each patient (provider names redacted)	(b)(6)
#12-03	10/20/2011	(b) (6)	Medical Records	CHCS/ AHLTA	10/27/2011	N/A	11/01/2012	11/1/2011	Closed 11/01/2011. NO RECORD.	N/A
#12-04	7/22/2011 Carryover from WRAMC	(b) (6)	Complaint about former Supervisor - possible HIPPA violation	Patient Advocacy (WRAMC).					Ms. Ince will not provide formal request. Spoke with [REDACTED] and [REDACTED] regarding this matter. Awaiting requester's response. CLOSED 2/8/2012 - No response from requester	N/A

Oct 2011 - Sep 2012

[illegible]

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-08	12/20/2011	Americans for Limited Government	All Communication to or from WRMMC staff discussing CoS Callahan's 9/14/2011 memo, prior to and after release; and copy of prior policy regarding "no religious items" section.	JAG					Per (b)(6), she will collect and distribute information for and to this office. Responsive documents received from (b)(6), Redactions made, and entire docs were given to (b)(6) on 1/13/2012 for review and processing. Response docs back to JAG 3 times. Finally sent to JAG Navy Yard (Pentagon) on 2/17/2012. Awaiting response. CLOSED	(b)(6); (b)(7)

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-09	12/21/2011	Family Research Council	Communication to or from WRMMC staff discussing CoS Callahan's 9/14/2011 memo, prior to and after release; and copy of prior policy regarding "no religious items" section.	JAG - (b) (6) (b) (7)					Per (b) (6) (b) (7) she will collect and distribute information for and to this office. Responsive documents received from (b) (6) (b) (7). Redactions made, and entire docs were given to (b) (6) (b) (7) on 1/13/2012 for review and processing. CLOSED	(b)(6); (b)(7)

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-10.	12/21/2011	(b) (6) Father	Copy of his sons latest NAVPERS 1070/502 - NOTE: Son # HM3 (b) (6) (b) (6) who died on 19 Aug 2011	NAVY Personnel - (b) (6)					NOTE: I contacted the "father" to say that we needed proof of his identity before we could process his request. He was in a class; took my number and says he will call me back. Tried to contact (b) (6) several times. No return call received. E-mailed him/her on 1/17/2012 and called again several times. H/she read e-mail on 1/17/2012. CLOSED 2/8/2012. No response from requester.	N/A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-11	1/17/2012	Phillips Health Care - Pamela Knop	Sales data for monitors procured by manufacturer and the dollar amounts of those procurements.	Contracting [REDACTED]					CLOSED 2/8/2012 1 page document faxed to Ms. Knop	N/A
#12-12	1/31/2012	David P. Sheldon, Esq - On behalf of CDR (b) (6) (b) (6) USN	All documents between any one that pertains to the work performance and any adverse actions the Command has taken	Referred back to: Naval Health Clinic; 47149 Buse Road; Patuxent, MD 20670-1540	1/31/2012	N/A	1/31/2012	N/A	(b) (1), (b) (7) contact Pax and received responsive docs on/about 15 Feb 2012. I received docs on 17 Feb 2012. Prepared letter for requester. JAG has back for review on 3/7/2012	(b5); (b)(6); (b)(7)
#12-13	1/31/2012	LexisNexis - on behalf of (b) (6)	Auto Accident Report	WRAMC - Forest Glen Police Depart	2/1/2012	N/A	2/1/2012	2/1/2012	Not a WRNMMC case. Transferred to WRAMC PD- Forest Glen. CLOSED	N/A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-14	2/23/2012	MacDonald Law Group	All facilities construction information of WRNMMC (formally NNMC/Bethesda Naval Hospital) from 1941-1983	Facilities (b) (6)	3/6/2012	N/A	3/6/2012	3/6/2012	CLOSED-03/06/2012 Per (b) (6) - forwarded case to Ms. (b) (6) at Facilities and notified the requester. See e-mail string	N/A
#12-15	3/1/2012	(b) (6)	Medical Records referred from JAG, Criminal Law Division, (Code 20)	N/A	N/A	N/A	N/A	N/A	CLOSED - 3/8/2012. Because they were his medical records, release in full. No charge	N/A
#12-16	4/3/2012	Cooley, LLP Patricia Perry	Contract information on G NMMC & WRAMC contracts on Orthotics and Prosthetics for medical and surgical instruments.	Contracting - Attn: (b) (6)	4/3/2012	4/23/2012	4/3/2012			(b)(6)

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-17	4/19/2012	Cohen & Cohen, P.C Kim Brooks-Rodney	Identity of Blood Bank civilian, non-civilian and contractor from 7/19/11-7/25/11	NARMC - Ft Belvoir; ATTN: (b) (6)	4/19/2012	N/A	N/A	4/19/2012	Spoke with Ms. Kim Brooks-Rodney and informed that case was transferred to NARMC (per (b) (6)). Sent follow-up e-mail to Ms. Brooks-Rodney and (b) (6). (b) (6) (NARMC FOIA Officer). See note in folder for further comments. CLOSED 4/19/2012	N/A
#12-18	4/24/2012	Fayetteville Observer	Warrior Transition Brigade Discharges	NRMCM - Ft Belvoir; ATTN: (b) (6)	N/A	N/A	N/A	N/A	(b) (6) forwarded me a copy of this request. I informed this was not my case and gave her general guidance on processing it. CLOSED 4/24/2012	N/A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-19	3/13/2012	(b) (6)	Graduate records from civilian organization	Civilian Hospital - Akron, Ohio	N/A	N/A	N/A	N/A	This one is numbered out of order. This is not a case for this office. Informed requester that he must submit his request to Akron Hospital. We have no oversight on civilian organizations - CLOSED 4/16/2012	N/A
#12-20	4/18/2012	(b) (6)	Personal information on result of lab tests conducted	FOIA Office	N/A	N/A	N/A	N/A	Request was received from Navy Criminal Investigative Service at Quantico, VA. That agency sent most of the response to (b) (6) and wanted this agency to agree to sending the results of the lab tests. CLOSED 5/13/2012	(b)(6)

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	
#12-21	6/14/2012 (out of sequence)	Glenda Battle	Therapeutic behavioral health screening, psychological assessments, referrals, links w/providers, partners with local Chaplains and MFLC	FOIA Office	6/14/2012	7/20/2012	6/14/2012	7/20/2012	TRANSFERRED to SE Region - Naval Air Station, Jacksonville, FL 32212-0102 CLOSED 7/23/2012 - # is Out of sequence -	N/A
#12-22		LT (b) (6) (b) (6)	CMEQ Report - 9 Mar 2012	WRNMMC - JAG Office; POC (b) (6)	N/A	N/A	N/A	N/A	Per (b) (6) - Request came to his office. He gathered the information, did the redactions and will present documents to requester. He only wants this office to "serialize" the case. CLOSED 6/7/2012	N/A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	
#12-23	6/5/2012	(b) (6) (b) (6) on behalf of COL (b) (6)	Any and all information concerning husband's accident	Naval District of Washington	6/6/2012	N/A	6/5/2012	6/6/2012	Spoke with (b) (6) at NDW who confirmed case belonged to them. Transferred case to her 6/6/2012. CLOSED 6/7/2012	N/A
#12-24	7/5/2012	LEXIS NEXIS - for (b) (6) (b) (6)	Accident Report - #123163400101	N/A	N/A	N/A	7/11/2012	7/11/2012	Spoke with (b) (6) at LexisNexis to inform that I needed a release letter from the insured. Linda requested that I terminate case. Her office will send a new request along with release document. CLOSED 7/11/2012	N/A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

#12-25	7/16/2012	Mr. Wade F. Casey	Outlook Calendar, Cell phone and text messages pertaining to [REDACTED] on 20 Apr 2012 from 1430-1530	FOIA/JAG	7/16/2012	7/31/2012	7/19/2012	7/19/2012	Sent requester final response. Info requested is denied via Exemption 6 and the Privacy Act. CLOSED 7/19/2012 Reopened due to customer concerns 7/23 CLOSED 2nd time 8/16/2012	N/A
#12-26	7/26/2012	CPT Ryan Coward - on behalf of MAJ Nidal M. Hasan	Requests for religious accommodation to wear beard, turban, Yakama, etc. Also Command policies relating to religious accommodation for past 10 years	FOIA	7/26/2012	N/A	7/26/2012	7/26/2012	Spoke with [REDACTED] (b)(6) confirmed that the information he needed is at Ft. Belvoir (where WRAMC records were transferred to). I contacted Ft. Belvoir to inform of the transfer then sent request electronically. CLOSED 7/26/2012	N/A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-27	7/ /2012	Louis French	IG Investigation	IG					Awaiting official request. No response from requester since 7/26/2012 therefore case CLOSED 9/6/2012.	N/A
#12/28	5/25/2012 (out of sequence)	Fitzpatrick, Hunt, Tucker, Collier, Pagano, Aubert	On behalf of (b) (6) Health Records	Medical Records	Outpatient Records				Sent request to Records for direct reply to requester. Asked for copy of response. Didn't get it from records. Called requester who confirmed she had received requested documents. CLOSED 7/20/2012.	N/A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-29	8/1/2012	(b) (6)	Police Records	IAG/FOIA	8/1/2012	8/13/2012	8/1/2012		Responsive documents sent to requester via e-mail. CLOSED 8/16/2012	(b)(6)
#12-30	8/14/2012	Allen Conrad	IG Report	IG	8/14/2012	8/21/2012	8/14/2012		Requested documents sent to requester via e-mail. CLOSED 9/10/2012	(b)(6); (b)(7)
#12-31	8/14/2012	(b) (6) (b) (6)	Naval Health Clinic Quantico records	NHC Quantico	8/14/2012	8/28/2012	8/14/2012		Case transferred to Quantico 9/10/2012 - see notes and e-mails in folder. CLOSED 9/10/2012 REOPENED - 9/11/2012 Quantico did not process. Redactions completed and sent to (b) (6) (b) (6) approval to sent to requester MLT 9/13/2012	(b)(6)

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-32	Unknown	Lt (b) (6) (b) (6)	Formal copy of CMEO report	WRNMMC JAG OFFICE	Unknown	Unknown	Unknown		Per (b) (6) - Request came to his office. He gathered the information, did the redactions and will present documents to requester. He only wants this office to "serialize" the case. CLOSED 8/16/2012	N/A
12-33	8/24/2012	(b) (6)	Psychiatric Records	WRAMC JAG					CLOSED 9/10/2012	N/A
12-34	9/10/2012	Nick NoWafney	AFCFCP write-up on (b) (6) & (b) (6)	Dept of Pediatrics/IA G/FOIA	9/10/2012	9/17/2012	9/10/2012		NOTE: Case was hand delivered by (b) (6). He says (b) (6) had already gathered information from (b) (6) MC, USN, Dept of Peds; AFCFCP.	N/A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
12-35	9/10/2012	Roger Myerberg	Inspection, evaluation, testing and analysis of a 23mm Medtronic bio-prosthetic valve-Medtronic Corp.	Contracting	9/11/2012	9/18/2012	9/11/2012 Via e-mail			
12-36	9/25/2012	Charles Porter	Copy of WRNMMC Inst 5720.4C - Bible Band	Command Secretariat	9/25/2012	N/A - hand carried and received no instruction	9/25/2012	9/25/2012	Two part request. This office answered 1,3,&4, and BUMED [REDACTED] answered 2 & 5	N/A
12-37	9/26/2012	CW4 Rajesh Sabharwal	Documents from Ft. Meade	FOIA Office	9/26/2012	N/A	9/26/2012	9/26/2012	Transferred to NSA - Ft. Meade	N/A
12-38	5/24/2012	Signature Performance, INC - for client: Kelly McIntosh	Contract Information - W91Y7Z-12-P-0516	Contracting	5/24/2012	6/2/2012		6/19/2012	Redacted information given to requester	(b)(6)

From: (b) (6) CIV USN BUMED FCH VA (US)
To: (b) (6) OJAG, Code 14
Subject: FW: FOIA End of Year Report
Date: Friday, November 13, 2015 12:26:16 PM

(b) (6)
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
(b) (6)

COMM (b) (6)

FOR OFFICIAL USE ONLY (FOUO) - PRIVACY SENSITIVE. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.

-----Original Message-----

From: (b) (6) CIV NMMC
Sent: Monday, October 01, 2012 4:36 PM
To: (b) (6) GS BUMED
Subject: RE: FOIA End of Year Report

Yes, but I'm off on Friday. Any other day will be perfect

-----Original Message-----

From: (b) (6) GS BUMED
Sent: Monday, October 01, 2012 3:20 PM
To: (b) (6) CIV NMMC
Subject: RE: FOIA End of Year Report

Good afternoon. Thanks! Will you be available in the next day or two to discuss? v/r (b) (6)

(b) (6)
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
(b) (6)

COMM (b) (6)

(b) (6)

FOR OFFICIAL USE ONLY (FOUO) - PRIVACY SENSITIVE. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.

-----Original Message-----

From: (b) (6) CIV NMMC
Sent: Monday, October 01, 2012 3:09 PM

To: (b) (6) GS BUMED
Cc: (b) (6) CIV NNMC
Subject: FOIA End of Year Report

Good morning (b) (6) - In follow-up to our conversation regarding the FOIA end of year report, attached please find the Processing Log as discussed.

Please let me know if there is anything else I need to do.

Thanks!

(b) (6)

ENCLOSURE B

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Tuesday, December 19, 2017 7:41 AM
To: (b) (6) CTR OPNAV, DNS-36'
Subject: FW: [Non-DoD Source] FOIA DON 18-O - Walter Reed FY 2012 Annual FOIA Report Submission as received by BUMED
Attachments: DON 18-O; BUMED- WRNMMC Unredacted FOIA Report with enclosures.pdf
Signed By: (b) (6) @mail.mil

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste (b) (6)
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil

FOR OFFICIAL USE ONLY (FOUO) - PRIVACY SENSITIVE. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.

-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]
Sent: Sunday, November 26, 2017 8:58 AM
To: Garcia, Della W CIV USN BUMED FCH VA (US); (b) (6) @mail.mil; Garcia, Della W CIV USN BUMED FCH VA (US)
Subject: [Non-DoD Source] FOIA DON 18-O - Walter Reed FY 2012 Annual FOIA Report Submission as received by BUMED

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

RobertHammond

(b) (6)
(b) (6) @aol.com

November 26, 2017
FOIA OFFICER
DEPARTMENT OF THE NAVY

BUREAU OF MEDICINE AND SURGERY (BUMED)
7700 ARLINGTON BOULEVARD
FALLS CHURCH, VA 22042
(b) (6) @med.navy.mil

Subject: FOIA Request – Walter Reed FY 2012 Annual FOIA Report Submission as received by BUMED

Requester Personal Reference Number: FOIA DON 18-O

<Caution-file:///C:/Users/Bob/AppData/Local/Temp/msohtmlclip1/01/clip_image001.png> References: <Caution-file:///C:/Users/Bob/AppData/Local/Temp/msohtmlclip1/01/clip_image001.png> (a) The Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., as amended,
(b) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
(c) The Privacy Act ("PA") of 1974, 5 U.S.C. § 552a, et seq., as amended (d) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(e) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program (f) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(g) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation
(i) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act
(j) Department of Justice Handbook for Agency Annual Freedom of Information Act Reports

Dear Ms. Garcia:

This is a FOIA request, not an appeal.

This Request will be ripe for judicial review in twenty working days.

I am submitting this request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., as amended. If you deny all or any part of this request, please cite each specific exemption you think justifies your decision not to release the information and notify me of appeal procedures available under the law. References cited above apply.

RECORDS SOUGHT VIA FOIA.

I am respectfully seeking all records in NAVSEA possession related to:

- a. An unredacted copy of Walter Reed's FY 2012 Annual FOIA Report submission records as received by BUMED, to include the forwarding correspondence thereof. Please see Enclosure A
- b. Note that the email addresses of Della Garcia (BUMED) and Judy Bizzell (Walter Reed (WRNMMC)) have been released into the public domain countless times with regard to their FOIA duties. See Enclosure B
- c. Also, there is no privacy exemption with regard to public employees in their official capacities.
2. Records indicating how BUMED reported my FOIA Request at Enclosure A in BUMED's FY 2014 and subsequent FOIA Reports via BUMED's Reporting Chain.
3. I am also requesting that a copy of this FOIA Request (which is an agency record) be included as a responsive record integral to my Request.

Requested Format. I am respectfully requesting that documents be provided as a single PDF file by return email

Agreement to Pay Fees: I agree to pay fees for searching or copying the records up to \$150. If the fees exceed this amount please advise me of the cost before proceeding. I do not believe that there should be any charge for providing these records, as there is public interest in government operations. I am a private individual not seeking documents for commercial use, such that the following applies: "No fees may be charged by any DoD Component if the costs of routine

collection and processing of the fee are likely to equal or exceed the amount of the fee. With the exception of requesters seeking documents for a commercial use, Components shall provide the first two hours of search time, and the first one hundred pages of duplication without charge." I would note that because I am requesting a PDF file, there should not be a per page copy fee.

PUBLIC INTEREST. The subject of the requested records concerns "the operations or activities of the government." The disclosure is "likely to contribute" to an understanding of government operations or activities. There is no commercial interest. There is significant public interest in Privacy Act reporting to Congress.

PRESERVATION OF RECORDS AND SEARCHES PERFORMED. Please preserve all responsive or potentially responsive records and records of your searches in your FOIA case file until the statutory date for judicial review has passed (should that be necessary) or in accordance with a NARA approved records schedule, if longer. Records of responsive searches would include but not be limited to: searches conducted for each specific record sought and all other records known to the Agency, including dates, manner of searching, responsible agent or employee conducting each search and the results thereof.

Civilian Employees Information Specifically Authorized for Release

The following information is specifically authorized for release under the Department of Defense Privacy Program by reference (b) and is not exempt under FOIA exemption (b)(6):

DoD 5400.11-R, May 14, 2007, DoD Privacy Act Program:

C4.CHAPTER 4

DISCLOSURE OF PERSONAL INFORMATION TO OTHER AGENCIES AND THIRD PARTIES C4.1.CONDITIONS OF DISCLOSURE [Intervening text omitted] C4.2.NON-CONSENSUAL CONDITIONS OF DISCLOSURES [Intervening text omitted]

C4.2.2.Disclosures Required by FOIA C4.2.2.1. All records must be disclosed if their release is required by Reference (p), as implemented by Reference (d). The FOIA requires that records be made available to the public unless withholding is authorized pursuant to one of nine exemptions or one of three law enforcement exclusions under the Act.

[Intervening text omitted]

C4.2.2.5.1.DoD Civilian Employees

C4.2.2.5.1.1.Some examples of personal information regarding DoD civilian employees that normally may be released without a clearly unwarranted invasion of personal privacy include:

C4.2.2.5.1.1.1.Name.

C4.2.2.5.1.1.2.Present and past position titles.

C4.2.2.5.1.1.3.Present and past grades.

C4.2.2.5.1.1.4.Present and past annual salary rates.

C4.2.2.5.1.1.5.Present and past duty stations.

C4.2.2.5.1.1.6.Office and duty telephone numbers.

C4.2.2.5.1.1.7.Position Descriptions.

C4.2.2.5.1.2.All disclosures of personal information regarding Federal civilian employees shall be made in accordance with OPM release policies.

LEGAL FRAMEWORK OF FOIA

1. The definition of "records" includes:

"[A]ll books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them." 44 U.S.C. § 3301 (emphasis supplied).

2. FOIA requires that "each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person" 5 U.S.C. § 552(a)(3)(A).
3. FOIA requires that "each agency shall establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request" 5 U.S.C. § 522(a)(7)(A).
4. FOIA requires that each agency shall "establish a telephone line or Internet service that provides information about the status of a request to the person making the request using the assigned tracking number, including the date on which the agency originally received the request; and an estimated date on which the agency will complete action on the request. 5 U.S.C. § 522(a)(7)(B).
5. FOIA also requires federal agencies to make a final determination on FOIA administrative appeals that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal, unless the agency expressly provides notice to the requester of "unusual circumstances" meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(ii).
6. FOIA expressly provides that a person shall be deemed to have constructively exhausted their administrative remedies if the agency fails to comply with the applicable time limitations provided by 5 U.S.C. § 552(a)(6)(A)(i)-(ii). See also 5 U.S.C. § 552(a)(6)(C).
7. FOIA provides that any person who has not been provided the records requested pursuant to FOIA, after exhausting their administrative remedies, may seek legal redress from the Federal District Court to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.
8. Regarding the names of the FOIA requesters, the courts have held that under the FOIA requesters do not have an expectation of privacy. *Stauss v. IRS*, 516 F.Supp. 1218, 1223 (D.D.C. 1981).
9. Under FOIA, the federal agency has the burden of sustaining its actions. 5 U.S.C. § 552(a)(4)(B).
10. Pursuant to FOIA, a Court may assess attorney fees and litigation costs against the United States if the Plaintiff prevails in an action thereunder. 5 U.S.C. § 552(a)(4)(E).
11. Department of Justice (DOJ) has issued a handbook addressing FOIA Annual Reports. See DOJ, Handbook for Agency Annual Freedom of Information Act Reports, "Disposition of FOIA Requests," (available at http://www.justice.gov/sites/default/files/oip/pages/attachments/2014/11/04/department_of_justice_handbook_for_agency_annual_freedom_of_information_act_reports.pdf < Caution-
http://www.justice.gov/sites/default/files/oip/pages/attachments/2014/11/04/department_of_justice_handbook_for_agency_annual_freedom_of_information_act_reports.pdf >) ("DOJ Handbook").
12. Among other things, the DOJ Handbook states, "All requests (perfected and non-perfected), appeals, and consultations that were pending at any time during the relevant fiscal year [October 1st through September 30th] will be captured."
13. The DOJ Handbook also states:
"[E]ach agency is ultimately responsible for the accuracy and completeness of its Annual FOIA Report. It is therefore essential for agencies to take steps that will ensure that they are adequately tracking all of the information necessary to complete the Annual FOIA Report sections detailed below. Agencies that utilize a tracking or case management system for this purpose are responsible for ensuring that the system they are using can produce an accurate Annual FOIA Report that is in compliance with the law and Department of Justice guidance." DOJ Handbook, at 3.

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request. If you deem that any portion of my request is unclear, answer the remaining portions and I will perfect a request for additional material as needed.

Thank you very much in advance.

With my respect,

Robert Hammond

Robert Hammond

(b) (6)

(b) (6)

@aol.com

November 26, 2017

FOIA OFFICER

DEPARTMENT OF THE NAVY

BUREAU OF MEDICINE AND SURGERY (BUMED)

7700 ARLINGTON BOULEVARD

FALLS CHURCH, VA 22042

(b) (6) @med.navy.mil

Subject: FOIA Request – Walter Reed FY 2012 Annual FOIA Report Submission as received by
BUMED

Requester Personal Reference Number: FOIA DON 18-O

- References:
- (a) The Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., as amended,
 - (b) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
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 - (d) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
 - (e) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
 - (f) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
 - (g) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation
 - (i) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act
 - (j) Department of Justice Handbook for Agency Annual Freedom of Information Act Reports

Dear Ms. Garcia:

This is a FOIA request, not an appeal.

This Request will be ripe for judicial review in twenty working days.

I am submitting this request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., as amended. If you deny all or any part of this request, please cite each specific exemption you think justifies your decision not to release the information and notify me of appeal procedures available under the law. References cited above apply.

RECORDS SOUGHT VIA FOIA.

I am respectfully seeking all records in NAVSEA possession related to:

- a. An unredacted copy of Walter Reed's FY 2012 Annual FOIA Report submission records as received by BUMED, to include the forwarding correspondence thereof. Please see Enclosure A
 - b. Note that the email addresses of Della Garcia (BUMED) and Judy Bizzell (Walter Reed (WRNMMC)) have been released into the public domain countless times with regard to their FOIA duties. See Enclosure B
 - c. Also, there is no privacy exemption with regard to public employees in their official capacities.
2. Records indicating how BUMED reported my FOIA Request at Enclosure A in BUMED's FY 2014 and subsequent FOIA Reports via BUMED's Reporting Chain.
 3. I am also requesting that a copy of this FOIA Request (which is an agency record) be included as a responsive record integral to my Request.

REQUESTED FORMAT. I am respectfully requesting that documents be provided as a single PDF file by return email

AGREEMENT TO PAY FEES. I agree to pay fees for searching or copying the records up to \$150. If the fees exceed this amount please advise me of the cost before proceeding. I do not believe that there should be any charge for providing these records, as there is public interest in government operations. I am a private individual not seeking documents for commercial use, such that the following applies: "No fees may be charged by any DoD Component if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee. With the exception of requesters seeking documents for a commercial use, Components shall provide the first two hours of search time, and the first one hundred pages of duplication without charge." I would note that because I am requesting a PDF file, there should not be a per page copy fee.

PUBLIC INTEREST. The subject of the requested records concerns "the operations or activities of the government." The disclosure is "likely to contribute" to an understanding of government operations or activities. There is no commercial interest. There is significant public interest in Privacy Act reporting to Congress.

PRESERVATION OF RECORDS AND SEARCHES PERFORMED. Please preserve all responsive or potentially responsive records and records of your searches in your FOIA case file until the statutory date for judicial review has passed (should that be necessary) or in accordance with a NARA approved records schedule, if longer. Records of responsive searches would include but not be limited to: searches conducted for each specific record sought and all other records known to the Agency, including dates, manner of searching, responsible agent or employee conducting each search and the results thereof.

CIVILIAN EMPLOYEES INFORMATION SPECIFICALLY AUTHORIZED FOR RELEASE

The following information is specifically authorized for release under the Department of Defense Privacy Program by reference (b) and is not exempt under FOIA exemption (b)(6):

DoD 5400.11-R, May 14, 2007, DoD Privacy Act Program:

C4. CHAPTER 4

DISCLOSURE OF PERSONAL INFORMATION TO OTHER AGENCIES AND
THIRD PARTIES

C4.1. CONDITIONS OF DISCLOSURE

[Intervening text omitted]

C4.2. NON-CONSENSUAL CONDITIONS OF DISCLOSURES

[Intervening text omitted]

C4.2.2. Disclosures Required by FOIA

C4.2.2.1. All records must be disclosed if their release is required by Reference (p), as implemented by Reference (d). The FOIA requires that records be made available to the public unless withholding is authorized pursuant to one of nine exemptions or one of three law enforcement exclusions under the Act.

[Intervening text omitted]

C4.2.2.5.1. DoD Civilian Employees

C4.2.2.5.1.1. Some examples of personal information regarding DoD civilian employees that normally may be released without a clearly unwarranted invasion of personal privacy include:

C4.2.2.5.1.1.1. Name.

C4.2.2.5.1.1.2. Present and past position titles.

C4.2.2.5.1.1.3. Present and past grades.

C4.2.2.5.1.1.4. Present and past annual salary rates.

C4.2.2.5.1.1.5. Present and past duty stations.

C4.2.2.5.1.1.6. Office and duty telephone numbers.

C4.2.2.5.1.1.7. Position Descriptions.

C4.2.2.5.1.2. All disclosures of personal information regarding Federal civilian employees shall be made in accordance with OPM release policies.

LEGAL FRAMEWORK OF FOIA

1. The definition of "records" includes:

"[A]ll books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them." 44 U.S.C. § 3301 (emphasis supplied).

2. FOIA requires that "each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person" 5 U.S.C. § 552(a)(3)(A).

3. FOIA requires that “each agency shall establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request” 5 U.S.C. § 522(a)(7)(A).

4. FOIA requires that each agency shall “establish a telephone line or Internet service that provides information about the status of a request to the person making the request using the assigned tracking number, including the date on which the agency originally received the request; and an estimated date on which the agency will complete action on the request. 5 U.S.C. § 522(a)(7)(B).

5. FOIA also requires federal agencies to make a final determination on FOIA administrative appeals that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal, unless the agency expressly provides notice to the requester of “unusual circumstances” meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(ii).

6. FOIA expressly provides that a person shall be deemed to have constructively exhausted their administrative remedies if the agency fails to comply with the applicable time limitations provided by 5 U.S.C. § 552(a)(6)(A)(I) - (ii). See also 5 U.S.C. § 552(a)(6)(C).

7. FOIA provides that any person who has not been provided the records requested pursuant to FOIA, after exhausting their administrative remedies, may seek legal redress from the Federal District Court to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.

8. Regarding the names of the FOIA requesters, the courts have held that under the FOIA requesters do not have an expectation of privacy. *Stauss v. IRS*, 516 F. Supp. 1218, 1223 (D.D.C. 1981),

9. Under FOIA, the federal agency has the burden of sustaining its actions. 5 U.S.C. § 552(a)(4)(B).

10. Pursuant to FOIA, a Court may assess attorney fees and litigation costs against the United States if the Plaintiff prevails in an action thereunder. 5 U.S.C. § 552(a)(4)(E).

11. Department of Justice (DOJ) has issued a handbook addressing FOIA Annual Reports. See DOJ, Handbook for Agency Annual Freedom of Information Act Reports, “Disposition of FOIA Requests,” (available at http://www.justice.gov/sites/default/files/oip/pages/attachments/2014/11/04/departments_of_justice_handbook_for_agency_annual_freedom_of_information_act_reports.pdf) (“DOJ Handbook”).

12. Among other things, the DOJ Handbook states, “All requests (perfected and non-perfected), appeals, and consultations that were pending at any time during the relevant fiscal year [October 1st through September 30th] will be captured.”

13. The DOJ Handbook also states: “[E]ach agency is ultimately responsible for the accuracy and completeness of its Annual FOIA Report. It is therefore essential for agencies to take steps that will ensure that they are adequately tracking all of the information necessary to complete the Annual FOIA Report sections detailed below. Agencies that utilize a tracking or case management system for this purpose are responsible for ensuring that the system they are using can produce an accurate

Annual FOIA Report that is in compliance with the law and Department of Justice guidance.”
DOJ Handbook, at 3.

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request. If you deem that any portion of my request is unclear, answer the remaining portions and I will perfect a request for additional material as needed.

Thank you very much in advance.

With my respect,

(b) (6)

Robert Hammond

ENCLOSURE A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
#12-01	10/13/2011	Cid Stendler/ Military Times	Digital copy of patient discharge statistics - 2000 thru 2010	Public Affairs/ Out Patient Correspondence	10/26/2011	11/8/2011	10/17/2011	12/8/2011	Closed 12/08/2011 by requester without responsive docs. Tele Con to requester shows that the docs were received thru alternate channels	N/A
#12-02	9/29/2011	Dept of Health and Human Services (survey #1039350)	Pharmacy and Billing Information for: [REDACTED]	CHCS/ AHLTA	10/31/2011			11/01/2011	Closed 11/1/2011 - Spoke with [REDACTED] (SJA). Granted per signed request of each patient (provider names redacted)	(b)(6)
#12-03	10/20/2011	(b) (6)	Medical Records	CHCS/ AHLTA	10/27/2011	N/A	11/01/2012	11/1/2011	Closed 11/01/2011 NO RECORD.	N/A
#12-04	7/23/2011 Carryover from WRAMC	(b) (6)	Complaint about former Supervisor - possible HIPPA violation	Patient Advocacy (WRAMC)					Ms. Inca will not provide formal request. Spoke with [REDACTED] and [REDACTED] regarding this matter. Awaiting requester's response. CLOSED 2/8/2012 - No response from requester	N/A

Oct 2011 - Sep 2012

[illegible]

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-08	12/20/2011	Americans for Limited Government	All Communication to or from WRMMC staff discussing CoS Callahan's 9/14/2011 memo, prior to and after release; and copy of prior policy regarding "no religious items" section.	JAG					Per (b)(7)(D), she will collect and distribute information for and to this office. Responsive documents received from (b)(7)(D), Redactions made, and entire docs were given to (b)(7)(D) on 1/13/2012 for review and processing. Response docs back to JAG 3 times. Finally sent to JAG Navy Yard (Pentagon) on 2/17/2012. Awaiting response. CLOSED	(b)(6); (b)(7)

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-09	12/21/2011	Family Research Council	Communication to or from WRMMC staff discussing CoS Callahan's 9/14/2011 memo, prior to and after release; and copy of prior policy regarding "no religious items" section.	JAG - (b)(7)(C)					Per (b)(7)(C), she will collect and distribute information for and to this office. Responsive documents received from (b)(7)(C), Redactions made, and entire docs were given to (b)(7)(C) on 1/13/2012 for review and processing. CLOSED	(b)(6); (b)(7)

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-10.	12/21/2011	(b) (6) Father	Copy of his sons latest NAVPERS 1070/602 - NOTE: Son = HME (b) (6) (b) (6) who died on 19 Aug 2011	NAVY Personnel - (b) (6)					NOTE: I contacted the "father" to say that we needed proof of his identity before we could process his request. He was in a class; took my number and says he will call me back. Tried to contact (b) (6) several times. No return call received. E-mailed him/her on 1/17/2012 and called again several times. H/she read e-mail on 1/17/2012. CLOSED 2/8/2012. No response from requester.	N/A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-11	1/17/2012	Phillips Health Care - Pamela Knop	Sales data for monitors procured by manufacturer and the dollar amounts of those procurements.	Contracting (b) (5); [REDACTED]					CLOSED 2/6/2012 1 page document faxed to Ms. Knop	N/A
#12-12	1/31/2012	David P. Sheldon, Esq - On behalf of CDR (b) (6) (b) (6) USN	ALL documents between any one that pertains to the work performance and any adverse actions the Command has taken	Referred back to: Naval Health Clinic; 47149 Buse Road; Patuxent, MD 20670-1540	1/31/2012	N/A	1/31/2012	N/A	(b) (6) contact Pax and received responsive docs on/about 15 Feb 2012. I received docs on 17 Feb 2012. Prepared letter for requester. JAG has back for review on 3/7/2012	(b5); (b)(6); (b)(7)
#12-13	1/31/2012	LexisNexis - on behalf of (b) (6)	Auto Accident Report	WRAMC - Forest Glen Police Depart	2/1/2012	N/A	2/1/2012	2/1/2012	Not a WRNMMC case. Transferred to WRAMC PD- Forest Glen. CLOSED	N/A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-14	2/23/2012	MacDonald Law Group	All facilities construction information of WRNM/MC (formally NNMC/Bethesda Naval Hospital) from 1941-1989	Facilities (b) (7) (D) (b) (7) (D)	3/6/2012	N/A	3/6/2012	3/6/2012	CLOSED-03/06/2012 Per (b) (7) (D) - forwarded case to Ms. (b) (7) (D) at Facilities and notified the requester. See e-mail string	N/A
#12-15	3/1/2012	(b) (6)	Medical Records referred from JAG, Criminal Law Division, (Code 20)	N/A	N/A	N/A	N/A	N/A	CLOSED - 3/8/2012. Because they were his medical records, release in full. No charge	N/A
#12-16	4/3/2012	Cooley, LLP Patricia Perry	Contract information on 6 NNMC & WRAMC contracts on Orthotics and Prosthetics for medical and surgical instruments.	Contracting - Attn: (b) (7) (D)	4/3/2012	4/23/2012	4/3/2012			(b)(6)

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-17	4/19/2012	Cohen & Cohen, P.C Kim Brooks-Rodney	Identity of Blood Bank civilian, non-civilian and contractor from 7/19/11-7/25/11	NARMC - Ft Belvoir; ATTN: (b) (6)	4/19/2012	N/A	N/A	4/19/2012	Spoke with Ms. Kim Brooks-Rodney and informed that case was transferred to NARMC (per (b) (6)) Sent follow-up e-mail to Ms. Brooks-Rodney and (b) (6) (NARMC FOIA Officer). See note in folder for further comments. CLOSED 4/19/2012	N/A
#12-18	4/24/2012	Fayetteville Observer	Warrior Transition Brigade Discharges	NRMC - Ft Belvoir; ATTN: (b) (6)	N/A	N/A	N/A	N/A	(b) (6) forwarded me a copy of this request. I informed this was not my case and gave her general guidance on processing it. CLOSED 4/24/2012	N/A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-19	3/13/2012	(b) (6)	Graduate records from civilian organization	Civilian Hospital - Akron, Ohio	N/A	N/A	N/A	N/A	This one is numbered out of order. This is not a case for this office. Informed requester that he must submit his request to Akron Hospital. We have no oversight on civilian organizations - CLOSED 4/16/2012	N/A
#12-20	4/18/2012	(b) (6)	Personal information on result of lab tests conducted	FOIA Office	N/A	N/A	N/A	N/A	Request was received from Navy Criminal Investigative Service at Quantico, VA. That agency sent most of the response to (b) (6) and wanted this agency to agree to sending the results of the lab tests. CLOSED 5/23/2012	(b)(6)

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	
#12-21	6/14/2012 (out of sequence)	Glenda Battle	Therapeutic behavioral health screening, psychological assessments, referrals, links w/providers, partners with local Chaplains and MFLC	FOIA Office	6/14/2012	7/20/2012	6/14/2012	7/20/2012	TRANSFERRED to SE Region - Naval Air Station, Jacksonville, FL 32212-0102 CLOSED 7/23/2012 - # is Out of sequence -	N/A
#12-22		LT (b) (6) (b) (6)	CMEO Report - 9 Mar 2012	WRNMMC - JAG Office; POC (b) (6)	N/A	N/A	N/A	N/A	Per (b) (6) - Request came to his office. He gathered the information, did the redactions and will present documents to requester. He only wants this office to "serialize" the case. CLOSED 6/7/2012	N/A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	
#12-23	6/5/2012	(b) (6) (b) (6) on behalf of COL (b) (6)	Any and all information concerning husband's accident	Naval District of Washington	6/6/2012	N/A	6/5/2012	6/6/2012	Spoke with (b) (6) at NDW who confirmed case belonged to them. Transferred case to her 6/6/2012. CLOSED 6/7/2012	N/A
#12-24	7/5/2012	LEXIS NEXIS - for (b) (6) (b) (6)	Accident Report - #123163400101	N/A	N/A	N/A	7/11/2012	7/11/2012	Spoke with (b) (6) at LexisNexis to inform that I needed a release letter from the insured. Linda requested that I terminate case. Her office will send a new request along with release document. CLOSED 7/11/2012	N/A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

#12-25	7/16/2012	Mr. Wade F. Casey	Outlook Calendar, Cell phone and text messages pertaining to ██████████ on 20 Apr 2012 from 1430-1530	FOIA/JAG	7/16/2012	7/31/2012	7/19/2012	7/19/2012	Sent requester final response. Info requested is denied via Exemption 6 and the Privacy Act. CLOSED 7/19/2012 Reopened due to customer concerns 7/23 CLOSED 2nd time 8/16/2012	N/A
#12-26	7/26/2012	CPT Ryan Coward - on behalf of MAJ Nidal M. Hasan	Requests for religious accommodation to wear beard, turban, Yakama, etc. Also Command policies relating to religious accommodation for past 10 years	FOIA	7/26/2012	N/A	7/26/2012	7/26/2012	Spoke with ██████████ (who) confirmed that the information he needed is at FT. Belvoir (where WRAMC records were transferred to). I contacted Ft. Belvoir to inform of the transfer then sent request electronically. CLOSED 7/26/2012	N/A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-27	7/ /2012	Louis French	IG Investigation	IG					Awaiting official request. No response from requester since 7/26/2012 therefore case CLOSED 9/6/2012	N/A
#12/28	5/25/2012 (out of sequence)	Fitzpatrick, Hunt, Tucker, Collier, Pagano, Aubert	On behalf of (b) (6) Health Records	Medical Records	Outpatient Records				Sent request to Records for direct reply to requester. Asked for copy of response. Didn't get it from records. Called requester who confirmed she had received requested documents. CLOSED 7/20/2012	N/A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-29	8/1/2012	(b) (6)	Police Records	JAG/FOIA	8/1/2012	8/13/2012	8/1/2012		Responsive documents sent to requester via e-mail. CLOSED 8/16/2012	(b)(6)
#12-30	8/14/2012	Allen Conrad	IG Report	IG	8/14/2012	8/21/2012	8/14/2012		Requested documents sent to requester via e-mail. CLOSED 9/10/2012	(b)(6); (b)(7)
#12-31	8/14/2012	LT (b) (6) (b) (6)	Naval Health Clinic Quantico records	NHC Quantico	8/14/2012	8/28/2012	8/14/2012		Case transferred to Quantico 9/10/2012 - see notes and e-mails in folder. CLOSED 8/10/2012 REOPENED - 9/11/2012 Quantico did not process. Redactions completed and sent to (b) (6) approval to sent to requester M/T 9/13/2012	(b)(6)

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
#12-32	Unknown	Lt (b) (6) (b) (6)	Formal copy of CMED report	WRNMMC JAG OFFICE	Unknown	Unknown	Unknown		Per (b) (6) - Request came to his office. He gathered the information, did the redactions and will present documents to requester. He only wants this office to "serialize" the case. CLOSED 8/16/2012	N/A
12-33	8/24/2012	(b) (6)	Psychiatric Records	WRAMC JAG					CLOSED 9/10/2012	N/A
12-34	9/10/2012	Nick Nowatney	AFCFCP write-up on (b) (6) & (b) (6)	Dept of Pediatrics/JAG/FOIA	9/10/2012	9/17/2012	9/10/2012		NOTE: Case was hand delivered by (b) (6). He says (b) (6) had already gathered information from (b) (6) MC, USN, Dept of Peds; AFCFCP.	N/A

FY12 FOIA PROCESSING LOG

Oct 2011 - Sep 2012

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	Redaction Codes
12-35	9/10/2012	Roger Myerberg	Inspection, evaluation, testing and analysis of a 23mm Medtronic bio-prosthetic valve-Medtronic Corp.	Contracting	9/11/2012	9/18/2012	9/11/2012 Via e-mail			
12-36	9/25/2012	Charles Porter	Copy of WRNMMC Inst 5720.4C - Bible Band	Command Secretariat	9/25/2012	N/A - hand carried and received no instruction	9/25/2012	9/25/2012	Two part request. This office answered 1,3,&4, and BUMED [REDACTED] answered 2 & 5	N/A
12-37	9/26/2012	CW4 Rajesh Sabharwal	Documents from Ft. Meade	FOIA Office	9/26/2012	N/A	9/26/2012	9/26/2012	Transferred to NSA - Ft. Meade	N/A
12-38	5/24/2012	Signature Performance, INC - for client: Kelly McIntosh	Contract Information - W91YTZ-12-P-0516	Contracting	5/24/2012	6/2/2012		6/19/2012	Redacted information given to requester	(b)(6)

From: (b) (6) CIV USN BUMED FCH VA (US)
To: (b) (6) OJAG, Code 14
Subject: FW: FOIA End of Year Report
Date: Friday, November 13, 2015 12:26:16 PM

(b) (6)
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
(b) (6)

COMM (b) (6)

FOR OFFICIAL USE ONLY (FOUO) - PRIVACY SENSITIVE. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.

-----Original Message-----

From: (b) (6) CIV NNMC
Sent: Monday, October 01, 2012 4:36 PM
To: (b) (6) GS BUMED
Subject: RE: FOIA End of Year Report

Yes, but I'm off on Friday. Any other day will be perfect

-----Original Message-----

From: (b) (6) GS BUMED
Sent: Monday, October 01, 2012 3:20 PM
To: (b) (6) CIV NNMC
Subject: RE: FOIA End of Year Report

Good afternoon. Thanks! Will you be available in the next day or two to discuss? v/r (b) (6)

(b) (6)
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
(b) (6)

COMM (b) (6)

(b) (6)

FOR OFFICIAL USE ONLY (FOUO) - PRIVACY SENSITIVE. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.

-----Original Message-----

From: (b) (6) CIV NNMC
Sent: Monday, October 01, 2012 3:09 PM

To: (b) (6) GS BUMED
Cc: (b) (6) CIV NNMC
Subject: FOIA End of Year Report

Good morning (b) (6) - In follow-up to our conversation regarding the FOIA end of year report, attached please find the Processing Log as discussed.

Please let me know if there is anything else I need to do.

Thanks!

(b) (6)
(b) (6)

ENCLOSURE B

Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)

From: Bizzell, Judy J CIV US WRNMMC
Sent: Thursday, January 24, 2013 1:07 PM
To: 'DONFOIA-PA'; Patterson, Robin L CIV OPNAV, DNS-36
Cc: Garcia, Della W. GS BUMED; Bizzell, Judy J CIV US WRNMMC
Subject: FY13 1st FOIA Quarterly Report

FY13 FOIA Quarterly REPORTING M

Quarter: 1st Quarter FY13

Department Name: Walter Reed National Military Medical Center

- a) FOIA requests received during quarter: 12
- b) FOIA requests processed during quarter: 7
- c) FOIA backlog at end of quarter: 4
- d) Status of 10 oldest backlogged cases reported on FY12 report -N/A

V/R

Judy J. Bizzell

(b) (6)

-----Original Message-----

From: (b) (6) CIV OPNAV, DNS-36C [mailto:(b) (6)@navy.mil] On Behalf Of DONFOIA-PA
Sent: Thursday, January 24, 2013 12:29 PM
To: Patterson, Robin L CIV OPNAV, DNS-36
Subject: DRAFT-----REMINDER: Action Item due Jan 25th - SOP - FOIA Quarterly Reports and Consolidation process
Importance: High

DON/Marine Corps FOIA Community,

This is a friendly reminder that the FOIA Quarterly Report is rapidly approaching along with the wintery weather conditions. The DON/MC consolidated submission is due to DNS-36 by COB tomorrow.

Echelon I/II's and Marine Corps, please coordinate with your subcomponents (same premise as the FOIA Annual Reporting process), consolidate the component data and provide your consolidated component response in the attached format. You may use the attached format to collect your subcomponents data. If you would like the master loader format to assist you in consolidating your responses, please contact our office thru the DONFOIA-PA mailbox or the service line at 202-685-0412, my FOIA team will expedite your request.

For those DON/MC community members fully vested in the DON/MC (NAVSEA) FOIA tracker and management tool, please find the attached SOP on how you can generate this data within the tool. This SOP provides you with visual step by step instructions.

Please include in your final response the hours and costs to generate your components consolidated report. The DON/MC consolidated submission is due to DNS-36 no later than COB January 25th. Please send your final response to the DONFOIA-PA mailbox.

Respectfully,

Robin Patterson

Head, DON PA/FOIA Office

(b) (6) @navy.mil

FOIA/PA Service Center 202-685-0412

or DONFOIA-PA@NAVY.MIL

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Wednesday, August 30, 2017 9:57 AM
To: Myers, Pamela A CAPT USN BUMED FCH VA (US)
Subject: RE: robert hammond address

Hi. It did--follow up in Feb.

Mr. Hammond's address is:

(b) (6)

v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste **(b) (6)**
Falls Church, VA 22042-5124



COMM **(b) (6)**

(b) (6) @mail.mil

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-----Original Message-----

From: Myers, Pamela A CAPT USN BUMED FCH VA (US)
Sent: Wednesday, August 30, 2017 9:39 AM
To: Garcia, Della W CIV USN BUMED FCH VA (US)
Subject: robert hammond address

Della -- will send out the letter re the disposed of gift today if I can get his address -- thanks - and hope all went well yesterday! VR/ pam

Captain Pamela A. Myers, JAGC, USN
Staff Judge Advocate
Navy Medicine Headquarters Legal/
Bureau of Medicine and Surgery (M00J-SJA)
7700 Arlington Blvd., Falls Church, Virginia 22042
Telephone: **(b) (6)** DSN 761
Facsimilie: 703-681-9604

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Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Wednesday, September 06, 2017 3:56 PM
To: Myers, Pamela A CAPT USN BUMED FCH VA (US)
Subject: SIGN ME NOW, please Interim Response - Hammond
Attachments: F17-073 (Hammond).docx

Importance: High

Hi.

Attached is the proposed interim response to Mr. Hammond.

Upon your blessing/signature, would you please have (b) (6) make a copy and mail out the original to Mr. Hammond.

Thanks so much!

v/r Della

Della W. Garcia
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Garcia, Della W CIV USN BUMED FCH VA (US)

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Sent: Wednesday, September 06, 2017 4:33 PM
To: Myers, Pamella A CAPT USN BUMED FCH VA (US)
Subject: RE: SIGN ME NOW, please Interim Response - Hammond

Thank you.

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v/r Della

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Here you go -

Will have (b) (6) mail the original tomorrow -

VR/ pam

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Ok -- and I just sent you another email and said -- if you would prefer to telework Friday - please do so (or whatever leave you need, I understand) -

VR/ pam

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Will have (b) (6) mail the original tomorrow -

VR/ pam

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Thanks so much!

v/r Della

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Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Wednesday, September 06, 2017 4:38 PM
To: Myers, Pamella A CAPT USN BUMED FCH VA (US)
Subject: RE: SIGN ME NOW, please Interim Response - Hammond

I will

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To: Garcia, Della W CIV USN BUMED FCH VA (US)
Subject: RE: SIGN ME NOW, please Interim Response - Hammond

Ok -- call me regardless, if you want to -

Captain Pamella A. Myers, JAGC, USN
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VR/ pam

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COMM (b) (6)

(b) (6) [REDACTED]@mail.mil

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Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Monday, October 02, 2017 6:49 AM
To: Myers, Pamela A CAPT USN BUMED FCH VA (US)
Subject: FW: [Non-DoD Source] Re: BUMED False Reporting? FOIA Fee Waiver Disposition Reached for DON-NAVY-2016-000246

Good morning.

Another email from Mr. Hammond.

We can address this in the same letter I am preparing responding to last week's email.

v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste (b) (6)
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(b) (6) @mail.mil

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-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]

Sent: Saturday, September 30, 2017 8:46 AM

To: Bono, Raquel C VADM USN DHA (US); Faison, C-Forrest (Forrest) VADM USN BUMED FCH VA (US); Moulton, Terry J RADM USN BUMED FCH VA (US); Chung, Joo Y SES OSD ODCMO (US); Allard, Cindy L CIV OSD ODCMO (US)

Cc: Tillotson, David III SES OSD ODCMO (US); Bono, Raquel C VADM USN DHA (US); (b) (6) @mail.mil;

(b) (6) @med.navy.mil; (b) (6) @mail.mil; (b) (6) @mail.mil; voiceofthecustomer@dha.mil;

(b) (6) @dha.mil

Subject: [Non-DoD Source] Re: BUMED False Reporting? FOIA Fee Waiver Disposition Reached for DON-NAVY-2016-000246

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Dear Vice Admiral Faison, Vice Admiral Bono, Rear Admiral Moulton, Ms. Chung, Ms. Allard,

As a point of clarification, the accuracy of reporting to this request was not resolved by the administrative appeal below. Perhaps it will be accurately documented now.

In his November 16, 2015 final determination letter, Mr. Grant E. Lattin, DON JAG, stated, "You appeal the non-response of the Navy Bureau of Medicine and Surgery (BUMED) to your September 21, 2014 request for all information they received from Walter Reed National Military Medical Center (WRNMMC) with regard to the Fiscal Year 2012 FOIA Report...BUMED was not able to locate a response to your September 21, 2014 request."

Regarding, whether or not my FOIA Request had been reported and entered into previous Fiscal Year Reports or if such reports should be amended, Mr. Lattin, stated that no action would be taken... that I had no right to ask... that the agency had no requirement to respond.

This followed a 7 Jan 15 letter (Ser DNS-36JP/15U105010), from Ms. Robin L. Paterson (OPNAV DNS 36 (DON FOIA/PA)) - that included BUMED, DHA, Walter Reed, Defense FOIA Policy Office - in which Ms. Patterson states, "BUMED indicated that their offices have no record of a FOIA Annual Report submission from WRNMMC since Fiscal Year 2009."

In doubt, I sought through FOIA and obtained from Ms. Patterson, the "Fiscal Year 2012 Subcomponent/Component or Agency" addendum supporting her FY 2012 Annual Report. That addendum shows National Naval Medical Center as the first subcomponent under BUMED.

In partially granting my appeal, Mr. Lattin released Walter Reed's FY 2012 Annual FOIA Report submission to BUMED that Walter Reed had forwarded as an attachment to BUMED in an October 01, 2012 3:09PM email. BUMED had the records all along.

I thought then, and still believe, that WRNMMC, BUMED, DON FOIA/PA, DHA did not want me to have those records. Why? These records are required by DOJ to be made publicly available, allowing requesters to see how - or even if - their requests and appeals are being reported to the Attorney General of the United States. Accurate reporting is the cornerstone of accountability.

Also, in my appeal package, you will find discussion relating to an appeal of a FOIA request that Walter Reed had improperly denied claiming that I had not offered to pay, even though the request clearly offers to pay \$200. By that unethical action any FOIA request could be denied. DON JAG sustained the appeal. Ms. Patterson interjected that matter into her letter.

Through OGIS, I sought only the basis of denial of that request as DON JAG and Walter Reed had reported it in their Annual FOIA Reports. Rather than answer that question, Mr. Lattin proclaimed that he was prepared to defend his decision in court. I felt that response was arrogant. DON JAG ultimately conceded that I "was improperly advised," but did not disclose the basis for denial. Long story short, I sought DON JAG's Appeals Processing Log via FOIA, which, although heavily and improperly redacted, shows that DON JAG had not reported that appeal denial along with others. As I recall, there is a critical performance element for Mr. Lattin's position related to the accuracy of the FOIA/Appeals Logs.

In over 40 years of serving DOD, it is my experience that by-in-large, FOIA/Privacy Officers are good and decent people trying to do a good job. Decisions are typically made by management, following legal review, sometimes placing those at the bottom rung, leadership and the Department in peril.

When will this all end? What will it take? These are easy audits.

In my view, integrity matters; accountability begins at the top; leadership is key.

This is a DOD matter.

I am asking for your help.

That said, I am open to considering timely, reasonable mediation with DOD regarding some records that I am currently seeking.

Thank you.

With my deep respect,

Robert Hammond

In a message dated 9/28/2017 3:33:45 PM Eastern Standard Time (b) (6) @aol.com writes:

Dear Vice Admiral Faison, Rear Admiral Moulton, Ms. Chung, Ms. Allard,

With deep respect, please see the email below that I received today. From the perspective of the accuracy and integrity of BUMED, DON JAG, DON FOIA processes and reporting through DOD to the Attorney General of the United States - not good. Potentially premeditated. Gets worse.

I have similar concerns regarding the accuracy and integrity of BUMED/DON Privacy Act reporting through DOD to Congress.

Please address this as to the accuracy and integrity of the BUMED/DON FOIA process and reporting of this Request/Appeal and whether or not there is willful false reporting plus an attempt to cover up same. DOD has all records contained in my appeal, along with the DON JAG reply, which I may address later. Ugly.

Ms, Chung, Ms. Allard, this is a DoD matter. I will greatly appreciate knowing your findings.

With my deep respect,

Robert Hammond

CC: Multiple

From: (b) (6) @navy.mil < Caution-mailto: (b) (6) @navy.mil >
To: (b) (6) @aol.com < Caution-mailto: (b) (6) @aol.com >
Sent: 9/28/2017 8:56:33 AM Eastern Standard Time
Subject: FOIA Fee Waiver Disposition Reached for DON-NAVY-2016-000246

Your request for Fee Waiver for the FOIA request DON-NAVY-2016-000246 has been partially granted with \$ 0.0 waived. Additional details for this request are as follows:

* Request Created on: 10/14/2015

* Fee Waiver Disposition Reason: This request is a partial grant and part denied

* Request Long Description: THIS IS AN APPEAL, NOT A FOIA REQUEST. I am appealing my FOIA request of September 14, 2014 to BUMED (which is shown at page 12 of the attached PDF) seeking the Walter Reed National Military Medical Center (WRNMMC) Fiscal Year 2012 Annual FOIA Report Submission. Basis for Appeal. This request remains open and unanswered, and I have not been provided an FY 2014 case tracking number. Despite factually inaccurate assertions by Ms. Patterson in the attachment, BUMED has not provided a reply to this FOIA request, nor has there been any letter of referral to Walter Reed National Military Medical Center. No responsive documents have been provided. I am further asserting that my FOIA request was not included in the DON FY 2014 Annual FOIA Report Submission to the Attorney General, nor has it been included in the FY 2015 submission. As shown in the attachment, DON is aware that this FOIA request has not been included in its Annual FOIA Report submission. Please address this matter in your response to my appeal.

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Tuesday, October 03, 2017 1:09 PM
To: Myers, Pamela A CAPT USN BUMED FCH VA (US)
Subject: FW: [Non-DoD Source] Re: BUMED False Reporting? FOIA Fee Waiver Disposition Reached for DON-NAVY-2016-000246 (UNCLASSIFIED)

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste (b) (6)
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil

FOR OFFICIAL USE ONLY (FOUO) - PRIVACY SENSITIVE. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.

-----Original Message-----

From: Hogan, James P CIV OSD ODCMO (US)
Sent: Tuesday, October 03, 2017 11:39 AM
To: Garcia, Della W CIV USN BUMED FCH VA (US)
Subject: RE: [Non-DoD Source] Re: BUMED False Reporting? FOIA Fee Waiver Disposition Reached for DON-NAVY-2016-000246 (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Della,

Please contact the DHA attorney working this litigation, Paul Cygnaroscicz, at (b) (6) @mail.mil. He would like to talk with you before you proceed. I also recommend you get your attorney involved.

Jim

-----Original Message-----

From: Hogan, James P CIV OSD ODCMO (US)
Sent: Tuesday, October 3, 2017 10:58 AM
To: Garcia, Della W CIV USN BUMED FCH VA (US) <(b) (6) @mail.mil>
Subject: FW: [Non-DoD Source] Re: BUMED False Reporting? FOIA Fee Waiver Disposition Reached for DON-NAVY-2016-000246 (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Good Morning Della,

I talked to the Defense Health Agency attorney who is working the litigation with Mr. Hammond, and he advises:

"The FY 2012 Walter Reed FOIA annual report submission is part of his litigation. Accordingly, a response of "this matter is in active litigation and DON will not respond separately." Is the recommended response."

Please let me know if you have any further questions.

Jim

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]
Sent: Saturday, September 30, 2017 8:46 AM
To: Bono, Raquel C VADM USN DHA (US) <(b) (6) @mail.mil>; Faison, C Forrest (Forrest) VADM USN BUMED FCH VA (US) <(b) (6) @mail.mil>; Moulton, Terry J RADM USN BUMED FCH VA (US) <(b) (6) @mail.mil>; Chung, Joo Y SES OSD ODCMO (US) <(b) (6) @mail.mil>; Allard, Cindy L CIV OSD ODCMO (US) <(b) (6) @mail.mil>
Cc: Tillotson, David III SES OSD ODCMO (US) <(b) (6) @mail.mil>; Bono, Raquel C VADM USN DHA (US) <(b) (6) @mail.mil>; (b) (6) @mail.mil; david.a.lane@med.navy.mil; (b) (6) @mail.mil; (b) (6) @mail.mil; voiceofthecustomer@dha.mil; (b) (6) @dha.mil
Subject: [Non-DoD Source] Re: BUMED False Reaporting? FOIA Fee Waiver Disposition Reached for DON-NAVY-2016-000246

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Dear Vice Admiral Faison, Vice Admiral Bono, Rear Admiral Moulton, Ms. Chung, Ms. Allard,

As a point of clarification, the accuracy of reporting to this request was not resolved by the administrative appeal below. Perhaps it will be accurately documented now.

In his November 16, 2015 final determination letter, Mr. Grant E. Lattin, DON JAG, stated, "You appeal the non-response of the Navy Bureau of Medicine and Surgery (BUMED) to your September 21, 2014 request for all information they received from Walter Reed National Military Medical Center (WRNMMC) with regard to the Fiscal Year 2012 FOIA Report...BUMED was not able to locate a response to your September 21, 2014 request."

Regarding, whether or not my FOIA Request had been reported and entered into previous Fiscal Year Reports or if such reports should be amended, Mr. Lattin, stated that no action would be taken... that I had no right to ask... that the agency had no requirement to respond.

This followed a 7 Jan 15 letter (Ser DNS-36JP/15U105010), from Ms. Robin L. Paterson (OPNAV DNS 36 (DON FOIA/PA)) - that included BUMED, DHA, Walter Reed, Defense FOIA Policy Office - in which Ms. Patterson states, "BUMED indicated that their offices have no record of a FOIA Annual Report submission from WRNMMC since Fiscal Year 2009."

In doubt, I sought through FOIA and obtained from Ms. Patterson, the "Fiscal Year 2012 Subcomponent/Component or Agency" addendum supporting her FY 2012 Annual Report. That addendum shows National Naval Medical Center as the first subcomponent under BUMED.

In partially granting my appeal, Mr. Lattin released Walter Reed's FY 2012 Annual FOIA Report submission to BUMED that Walter Reed had forwarded as an attachment to BUMED in an October 01, 2012 3:09PM email. BUMED had the records all along.

I thought then, and still believe, that WRNMMC, BUMED, DON FOIA/PA, DHA did not want me to have those records. Why? These records are required by DOJ to be made publicly available, allowing requesters to see how – or even if – their requests and appeals are being reported to the Attorney General of the United States. Accurate reporting is the cornerstone of accountability.

Also, in my appeal package, you will find discussion relating to an appeal of a FOIA request that Walter Reed had improperly denied claiming that I had not offered to pay, even though the request clearly offers to pay \$200. By that unethical action any FOIA request could be denied. DON JAG sustained the appeal. Ms. Patterson interjected that matter into her letter.

Through OGIS, I sought only the basis of denial of that request as DON JAG and Walter Reed had reported it in their Annual FOIA Reports. Rather than answer that question, Mr. Lattin proclaimed that he was prepared to defend his decision in court. I felt that response was arrogant. DON JAG ultimately conceded that I "was improperly advised," but did not disclose the basis for denial. Long story short, I sought DON JAG's Appeals Processing Log via FOIA, which, although heavily and improperly redacted, shows that DON JAG had not reported that appeal denial along with others. As I recall, there is a critical performance element for Mr. Lattin's position related to the accuracy of the FOIA/Appeals Logs.

In over 40 years of serving DOD, it is my experience that by-in-large, FOIA/Privacy Officers are good and decent people trying to do a good job. Decisions are typically made by management, following legal review, sometimes placing those at the bottom rung, leadership and the Department in peril.

When will this all end? What will it take? These are easy audits.

In my view, integrity matters; accountability begins at the top; leadership is key.

This is a DOD matter.

I am asking for your help.

That said, I am open to considering timely, reasonable mediation with DOD regarding some records that I am currently seeking.

Thank you.

With my deep respect,

Robert Hammond

In a message dated 9/28/2017 3:33:45 PM Eastern Standard Time, (b) (6) @aol.com writes:

Dear Vice Admiral Faison, Rear Admiral Moulton, Ms. Chung, Ms. Allard,

With deep respect, please see the email below that I received today. From the perspective of the accuracy and integrity of BUMED, DON JAG, DON FOIA processes and reporting through DOD to the Attorney General of the United States - not good. Potentially premeditated. Gets worse.

I have similar concerns regarding the accuracy and integrity of BUMED/DON Privacy Act reporting through DOD to Congress.

Please address this as to the accuracy and integrity of the BUMED/DON FOIA process and reporting of this Request/Appeal and whether or not there is willful false reporting plus an attempt to cover up same. DOD has all records contained in my appeal, along with the DON JAG reply, which I may address later. Ugly.

Ms, Chung, Ms. Allard, this is a DoD matter. I will greatly appreciate knowing your findings.

With my deep respect,

Robert Hammond

CC: Multiple

From: (b) (6) @navy.mil < Caution-mailto:(b) (6) @navy.mil >
To: (b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com >
Sent: 9/28/2017 8:56:33 AM Eastern Standard Time
Subject: FOIA Fee Waiver Disposition Reached for DON-NAVY-2016-000246

Your request for Fee Waiver for the FOIA request DON-NAVY-2016-000246 has been partially granted with \$ 0.0 waived. Additional details for this request are as follows:

- * Request Created on: 10/14/2015
- * Fee Waiver Disposition Reason: This request is a partial grant and part denied

* Request Long Description: THIS IS AN APPEAL, NOT A FOIA REQUEST. I am appealing my FOIA request of September 14, 2014 to BUMED (which is shown at page 12 of the attached PDF) seeking the Walter Reed National Military Medical Center (WRNMMC) Fiscal Year 2012 Annual FOIA Report Submission. Basis for Appeal. This request remains open and unanswered, and I have not been provided an FY 2014 case tracking number. Despite factually inaccurate assertions by Ms. Patterson in the attachment, BUMED has not provided a reply to this FOIA request, nor has there been any letter of referral to Walter Reed National Military Medical Center. No responsive documents have been provided. I am further asserting that my FOIA request was not included in the DON FY 2014 Annual FOIA Report Submission to the Attorney General, nor has it been included in the FY 2015 submission. As shown in the attachment, DON is aware that this FOIA request has not been included in its Annual FOIA Report submission. Please address this matter in your response to my appeal.

* CLASSIFICATION: UNCLASSIFIED

CLASSIFICATION: UNCLASSIFIED

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Wednesday, October 04, 2017 9:38 AM
To: Myers, Pamella A CAPT USN BUMED FCH VA (US)
Subject: FW: [Non-DoD Source] Re: FOIA Request DON-NAVY-2017-009256 Submitted

Hi.

Also, this is the one Jim Hogan called me on yesterday--he was going to call Mr. Hammond and explain.

v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste (b) (6)
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil

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-----Original Message-----

From: (b) (6) CIV USN BUMED FCH VA (US)
Sent: Wednesday, October 04, 2017 9:26 AM
To: Myers, Pamella A CAPT USN BUMED FCH VA (US)
Cc: Garcia, Della W CIV USN BUMED FCH VA (US)
Subject: FW: [Non-DoD Source] Re: FOIA Request DON-NAVY-2017-009256 Submitted

Pam,

Let's discuss. Not sure why (b) (6) was responding directly to a FOIA, may need to provide some training. Additionally, you and Della should take a look and see if we need to take additional action on this one.

V/r,
(b) (6)

-----Original Message-----

From: Moulton, Terry J RADM USN BUMED FCH VA (US)
Sent: Wednesday, October 04, 2017 9:21 AM
To: (b) (6) CIV USN BUMED FCH VA (US)
Cc: Mitton, Robert H CAPT USN BUMED FCH VA (US); (b) (6) CDR USN BUMED FCH VA (US); LeFavour, John W CAPT USN BUMED FCH VA (US); (b) (6) CDR USN BUMED FCH VA (US)
Subject: FW: [Non-DoD Source] Re: FOIA Request DON-NAVY-2017-009256 Submitted

(b) (6) FYSA and action as appropriate.

Vr,

Terry J. Moulton
RADM MSC USN

-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]

Sent: Wednesday, October 04, 2017 6:37 AM

To: (b) (6) CIV USN BUMED FCH VA (US)

Cc: Faison, C Forrest (Forrest) VADM USN BUMED FCH VA (US); Moulton, Terry J RADM USN BUMED FCH VA (US)

Subject: [Non-DoD Source] Re: FOIA Request DON-NAVY-2017-009256 Submitted

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Dear Mr. (b) (6)

"Offices" are not people.

With respect, do you personally have knowledge of responsive records that existed at the time of my request that were not released?

With respect, do you personally have knowledge of responsive records that were destroyed subsequent to my request?

With respect, do you personally have knowledge of any Privacy Act Complaints that were not reported?

With respect, do you recall the details of our telephone conversations?

Thank you.

With my respect,

Robert Hammond

In a message dated 10/3/2017 8:35:46 AM Eastern Standard Time, (b) (6) @mail.mil writes:

Mr. Hammond,

Good morning. After a thorough review of your FOIA request my office determined the files you requested for that particular time-frame were not managed by the BUMED M31 Privacy Office and we redirected your inquiry to

BUMED Legal/FOIA for action. More recent Privacy Act Reports (those directed by Congressional Oversight via DoD and DON) have been assigned to BUMED's M31 Privacy Office for action; however, the oversight is still maintained by BUMED M00J Legal Office and any FOIA requests should be directed to Ms. Garcia first. The M31 Privacy Office has no concerns about your request for public interest files requiring disclosure under a FOIA request. Feel free to contact me if you have any HIPAA privacy related concerns or questions.

V/R,

(b) (6)

Privacy Program Office (Code: M31)
U.S. Navy Bureau of Medicine and Surgery (BUMED)
Detachment Jacksonville
H2005 Knight Lane, PO Box 140
NAS Jacksonville, FL 32212-0140

COMM: 904-542-3559 (New Office Number)

DSN:

Email: (b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil >

UNCLASSIFIED DOCUMENT - For Official Use Only (FOUO). This document may contain information covered under the Privacy Act, 5 USE 552(a), and/or the Health insurance Portability and Accountability Act (PL 104-191) and its various implementing regulations and must be protected in accordance with

those provisions. If you have received this correspondence in error, please notify the sender at once and destroy any copies you have made.

V/R,

(b) (6)

(b) (6)

Privacy Program Office (Code: M31)
U.S. Navy Bureau of Medicine and Surgery (BUMED)
Detachment Jacksonville
H2005 Knight Lane, PO Box 140
NAS Jacksonville, FL 32212-0140

COMM: 904-542-3559 (New Office Number)

DSN:

Email: (b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil >

UNCLASSIFIED DOCUMENT - For Official Use Only (FOUO). This document may contain information covered under the Privacy Act, 5 USE 552(a), and/or the Health insurance Portability and Accountability Act (PL 104-191) and its various implementing regulations and must be protected in accordance with

those provisions. If you have received this correspondence in error, please notify the sender at once and destroy any copies you have made.

-----Original Message-----

From: (b) (6) @aol.com <Caution-mailto:(b) (6) @aol.com> [Caution-mailto:(b) (6) @aol.com <Caution-mailto:(b) (6) @aol.com?>]

Sent: Thursday, September 14, 2017 9:10 PM

To: (b) (6) CIV USN (US)

Cc: (b) (6) CIV USN BUMED FCH VA (US); Garcia, Della W CIV USN BUMED FCH VA (US)

Subject: [Non-DoD Source] Re: Re: FOIA Request DON-NAVY-2017-009256 Submitted

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Dear Captain Meyers,

I received your interim reply indicating that you are gathering responsive records. Thank you.

My interest in seeking these records is very, very narrow. BUMED, Ms Garcia, Mr (b) (6) need not be concerned in that regard.

That said, while I am not anticipating any issues with BUMED's impending reply being a complete one, I am very mindful of some DOD FOIA practices. As a career naval officer, you would be aware of various avenues of redress. I would very much like to avoid any of that.

I am providing you below narrative information that I normally include in other FOIA requests, just so that you have it. I omitted this in my FOIA Request to BUMED, not anticipating then and still not anticipating any disputes.

Regarding judicial review, should that be necessary (along with sworn declarations), please consider, from the perspective of BUMED:

IMPACT OF IMPROPERLY WITHHOLDING RECORDS

Pursuant to FOIA:

"Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends." 5 U.S.C. § 552(a)(4)(F)(i).

DESTRUCTION, ALTERATION OR FALSIFICATION OF RECORDS

"Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed

under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both." 18 U.S. Code § 1519 - Destruction, alteration, or falsification of records.

PERJURY

Whoever-

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

18 U.S. C. § 1621 - Perjury generally (June 25, 1948, ch. 645, 62 Stat. 773 < Caution-Caution-
<http://uscode.house.gov/statviewer.htm?volume=62&page=773> < Caution-
<http://uscode.house.gov/statviewer.htm?volume=62&page=773> > > ; Pub. L. 88-619, §1, Oct. 3, 1964, 78 Stat. 995 <
Caution-Caution-<http://uscode.house.gov/statviewer.htm?volume=78&page=995> < Caution-
<http://uscode.house.gov/statviewer.htm?volume=78&page=995> > > ; Pub. L. 94-550, §2, Oct. 18, 1976, 90 Stat. 2534 <
Caution-Caution-<http://uscode.house.gov/statviewer.htm?volume=90&page=2534> < Caution-
<http://uscode.house.gov/statviewer.htm?volume=90&page=2534> > > ; Pub. L. 103-322, title XXXIII, §330016(1)(I), Sept.
13, 1994, 108 Stat. 2147. < Caution-Caution-<http://uscode.house.gov/statviewer.htm?volume=108&page=2147> <
Caution-<http://uscode.house.gov/statviewer.htm?volume=108&page=2147> > >

Thank you.

With my respect,

Robert Hammond

In a message dated 9/7/2017 5:40:41 AM Eastern Standard Time, (b) (6) @aol.com < Caution-
mailto:(b) (6) @aol.com > writes:

Dear Ms. Garcia, Mr. (b) (6)

As a polite reminder, my attached FOIA Request seeking FY 2013 Privacy Act Report submissions is now timely for judicial review.

In good faith, please promptly release all records that I am seeking without redaction. These records were all in the Agency's custody at the time of my request for them.

I am adding the Defense Privacy and Civil Liberties Office for information. Ms. Chin and Ms Allard have, to date, been very helpful in timely resolving such matters within DOD. There are also multiple avenues for redress.

Thank you.

Best...

With my respect,

Robert Hammond

Copy to: No others

In a message dated 8/31/2017 12:43:04 PM Eastern Standard Time, (b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com > < Caution-Caution-mailto:(b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com? > > writes:

Dear Ms. Garcia,

To assist you in your timely review of the responsive records that are in your possession, there should be no redaction of information related to the report submitter. The names, phone numbers and email addresses of the Privacy Officers are posted on public web sites and in the public domain through countless correspondences and FOIA request-released records, which is also true for Agency FOIA Officers. Attached is one sample.

Also, all Privacy Act related records are required to be retained for six years.

Please contact me if you have any questions or if I may assist you further.

Thank you, again. Best...

With my respect,

Robert Hammond

From: (b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com > < Caution-Caution-mailto:(b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com? > >
To: (b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil > < Caution-Caution-mailto:(b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil? > >
Cc: (b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil > < Caution-Caution-mailto:(b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil? > >

Sent: 8/27/2017 8:56:20 AM Eastern Standard Time

Subject: Re: RE: [Non-DoD Source] Fwd: FOIA Request DON-NAVY-2017-009256 Submitted

Dear Ms. Garcia,

I am following up on my request below.

The records that I am seeking were in the agency's possession at the time of my FOIA Request for them. My Request identifies the legal requirement to preserve such records and records of your searches for judicial review. This request will soon be timely for judicial review. As you know there are also other remedies for redress, if records are deleted.

Thank you so very much for your prompt consideration of my request.

With my respect,

Robert Hammond

In a message dated 8/9/2017 9:40:47 AM Eastern Standard Time (b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil > < Caution-Caution-mailto:(b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil? > > writes:

Good morning.I have received your request and will process it as quickly as possible.

v/r Della

Della W. Garcia

FOIA/PA Paralegal SpecialistBureau of Medicine and SurgeryMedical-Legal Affairs Office7700 Arlington Blvd Ste 5124Falls Church, VA 22042-5124COMM (b) (6) @mail.milFOR < Caution-mailto:(b) (6) @mail.milFOR > < Caution-Caution-mailto:(b) (6) @mail.milFOR < Caution-mailto:(b) (6) @mail.milFOR? > > OFFICIAL USE ONLY (FOUO) - PRIVACY SENSITIVE. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.-----Original Message-----From: (b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com > < Caution-Caution-mailto:(b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com? > > [Caution-Caution-mailto:(b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com? > > < Caution-Caution-mailto:(b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com? > >] Sent: Tuesday, August 08, 2017 4:16 PMTo: Garcia, Della W CIV USN BUMED FCH VA (US)Cc:(b) (6) CIV USN BUMED FCH VA (US); (b) (6) @aol.comSubject < Caution-mailto:(b) (6) @aol.comSubject > < Caution-Caution-mailto:(b) (6) @aol.comSubject < Caution-mailto:(b) (6) @aol.comSubject? > > : [Non-DoD Source] Fwd: FOIA Request DON-NAVY-2017-009256 SubmittedAll active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser. Dear Ms Garcia,Please see the FOIAonline submission of this request, forwarded to Mr (b) (6) yesterday for cross-reference to your files.Thank you in advance for your prompt consideration of my request. Please let me know if there is any clarification or anything more that you need from me.Thank you again.With my respect,Robert HammondFrom: DONFOIA-PA@navy.mil < Caution-mailto:PA@navy.mil > < Caution-Caution-mailto:PA@navy.mil < Caution-mailto:PA@navy.mil? > > To: (b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com > < Caution-Caution-mailto:(b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com? > > Sent: 8/7/2017 9:08:27 PM Eastern Standard Time Subject: FOIA Request DON-NAVY-2017-009256 Submitted This message is to confirm your request submission to the FOIAonline application: View Request < Caution-Caution-Caution-https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d2814dacd4 < Caution-https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d2814dacd4 > < Caution-Caution-https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d2814dacd4 < Caution-https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d2814dacd4 > > > .

Request information is as follows: * Tracking Number: DON-NAVY-2017-009256 * Requester Name: robert hammond * Date Submitted: 08/07/2017 * Request Status: Submitted * Description: (b) (6) Navy Bureau of Medicine and Surgery, (BUMED) (b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil > < Caution-Caution-mailto:(b) (6) @mail.mil < Caution-mailto (b) (6) @mail.mil? > > < Caution-Caution-Caution-mailto:(b) (6) @mail.mil < Caution-mailto (b) (6) @mail.mil? > < Caution-Caution-mailto:(b) (6) @mail.mil < Caution-mailto (b) (6) @mail.mil? > ? > > (b) (6) Subject: FOIA Request – Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports Requester Personal Reference Number: FOIA DON 17-D References: (a) The Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 et seq., as amended, (b) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, “Your Right to Federal Records” (c) The Privacy Act (“PA”) of 1974, 5 U.S.C. § 552a, et seq., as amended (d) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program (e) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program (f) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program (g) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation (i) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act (j) Department of Justice Handbook for Agency Annual Freedom of Information Act Reports Dear Sir: I am submitting this request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 et seq., as amended. If you deny all or any part of this request, please cite each specific exemption you think justifies your decision not to release the information and notify me of appeal procedures available under the law. References cited above apply. This confirms my conversation with Mr. (b) (6) of today who is on possession of the records that I am seeking. Thank you, sir. BACKGROUND. Pursuant to 42 U.S.C. 2000ee-1, DOD submits Quarterly (now semi-annual) Privacy Reports to Congress, The DOD report is consolidated and submitted by the Defense Privacy and Civil Liberties Office (DPCLO). FY 2014 and later reports may be found at Caution-Caution-Caution-http://dpcl.d.defense.gov/Reports/ < Caution-http://dpcl.d.defense.gov/Reports/ > < Caution-Caution-http://dpcl.d.defense.gov/Reports/ < Caution-http://dpcl.d.defense.gov/Reports/ > > < Caution-Caution-Caution-http://dpcl.d.defense.gov/Reports/ < Caution-http://dpcl.d.defense.gov/Reports/ > < Caution-Caution-http://dpcl.d.defense.gov/Reports/ < Caution-http://dpcl.d.defense.gov/Reports/ > > . RECORDS SOUGHT VIA FOIA. I am respectfully seeking all of the sub-unit/sub-element reports input subm

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Wednesday, October 04, 2017 11:06 AM
To: Myers, Pamella A CAPT USN BUMED FCH VA (US)
Subject: RE: [Non-DoD Source] Re: FOIA Request DON-NAVY-2017-009256 Submitted

Hi.
I agree---we have no action.

v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste (b) (6)
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil

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-----Original Message-----

From: Myers, Pamella A CAPT USN BUMED FCH VA (US)
Sent: Wednesday, October 04, 2017 10:16 AM
To: Garcia, Della W CIV USN BUMED FCH VA (US)
Subject: RE: [Non-DoD Source] Re: FOIA Request DON-NAVY-2017-009256 Submitted

I noticed the number on this one is not the same as the email from the 28th or the email from the 30th -

Since Mr. Hogan is calling him, we have no action on this one at this point - do you agree -

Thanks - Vr, pam

Captain Pamella A. Myers, JAGC, USN
Staff Judge Advocate
Navy Medicine Headquarters Legal/
Bureau of Medicine and Surgery (M00J-SJA)
7700 Arlington Blvd., Falls Church, Virginia 22042
Telephone: (b) (6) DSN 761
Facsimile: 703-681-9604

FOR OFFICIAL USE ONLY - PRIVACY SENSITIVE: ANY MISUSE OR UNAUTHORIZED DISCLOSURE OF THIS INFORMATION MAY RESULT IN BOTH CRIMINAL AND CIVIL PENALTIES. The information contained in this e-mail, and any attachments, is UNCLASSIFIED, but SENSITIVE or PERSONAL INFORMATION, and may also be LEGALLY PRIVILEGED. This information is

intended for the sole use of a particular recipient for a proper business purpose. If you are not the intended recipient of this information, any disclosure, copying, distribution, or the taking of any action in reliance upon contained information is strictly prohibited. The sender has not waived any applicable privilege by sending this transmission. If you received this e-mail in error, please notify the sender immediately, either by return e-mail or by using the telephone or fax numbers provided. If you have any questions regarding this notice, please contact the sender. Thank you.

-----Original Message-----

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Wednesday, October 04, 2017 9:38 AM
To: Myers, Pamella A CAPT USN BUMED FCH VA (US)
Subject: FW: [Non-DoD Source] Re: FOIA Request DON-NAVY-2017-009256 Submitted

Hi.

Also, this is the one Jim Hogan called me on yesterday--he was going to call Mr. Hammond and explain.

v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste (b) (6)
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil

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-----Original Message-----

From: (b) (6) CIV USN BUMED FCH VA (US)
Sent: Wednesday, October 04, 2017 9:26 AM
To: Myers, Pamella A CAPT USN BUMED FCH VA (US)
Cc: Garcia, Della W CIV USN BUMED FCH VA (US)
Subject: FW: [Non-DoD Source] Re: FOIA Request DON-NAVY-2017-009256 Submitted

Pam,

Let's discuss. Not sure why (b) (6) was responding directly to a FOIA, may need to provide some training. Additionally, you and Della should take a look and see if we need to take additional action on this one.

V/r,
(b) (6)

-----Original Message-----

From: Moulton, Terry J RADM USN BUMED FCH VA (US)
Sent: Wednesday, October 04, 2017 9:21 AM

To: (b) (6) CIV USN BUMED FCH VA (US)
Cc: Mitton, Robert H CAPT USN BUMED FCH VA (US); (b) (6) CDR USN BUMED FCH VA (US); LeFavour, John W
CAPT USN BUMED FCH VA (US); (b) (6) CDR USN BUMED FCH VA (US)
Subject: FW: [Non-DoD Source] Re: FOIA Request DON-NAVY-2017-009256 Submitted

Sal - FYSA and action as appropriate.

Vr,

Terry J. Moulton
RADM MSC USN

-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]
Sent: Wednesday, October 04, 2017 6:37 AM
To: (b) (6) CIV USN BUMED FCH VA (US)
Cc: Faison, C Forrest (Forrest) VADM USN BUMED FCH VA (US); Moulton, Terry J RADM USN BUMED FCH VA (US)
Subject: [Non-DoD Source] Re: FOIA Request DON-NAVY-2017-009256 Submitted

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Dear Mr. (b) (6)

"Offices" are not people.

With respect, do you personally have knowledge of responsive records that existed at the time of my request that were not released?

With respect, do you personally have knowledge of responsive records that were destroyed subsequent to my request?

With respect, do you personally have knowledge of any Privacy Act Complaints that were not reported?

With respect, do you recall the details of our telephone conversations?

Thank you.

With my respect,

Robert Hammond

In a message dated 10/3/2017 8:35:46 AM Eastern Standard Time, (b) (6) @mail.mil writes:

Mr. Hammond,

Good morning. After a thorough review of your FOIA request my office determined the files you requested for that particular time-frame were not managed by the BUMED M31 Privacy Office and we redirected your inquiry to BUMED Legal/FOIA for action. More recent Privacy Act Reports (those directed by Congressional Oversight via DoD and DON) have been assigned to BUMED's M31 Privacy Office for action; however, the oversight is still maintained by BUMED M00J Legal Office and any FOIA requests should be directed to Ms. Garcia first. The M31 Privacy Office has no concerns about your request for public interest files requiring disclosure under a FOIA request. Feel free to contact me if you have any HIPAA privacy related concerns or questions.

V/R,

(b) (6)

Privacy Program Office (Code: M31)
U.S. Navy Bureau of Medicine and Surgery (BUMED)
Detachment Jacksonville
H2005 Knight Lane, PO Box 140
NAS Jacksonville, FL 32212-0140

COMM: 904-542-3559 (New Office Number)

DSN: (b) (6)

Email: (b) (6) @mail.mil < Caution-mailto: (b) (6) @mail.mil >

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those provisions. If you have received this correspondence in error, please notify the sender at once and destroy any copies you have made.

V/R,

(b) (6)

(b) (6)

Privacy Program Office (Code: M31)
U.S. Navy Bureau of Medicine and Surgery (BUMED)
Detachment Jacksonville
H2005 Knight Lane, PO Box 140
NAS Jacksonville, FL 32212-0140

COMM: 904-542-3559 (New Office Number)

DSN: (b) (6)

Email: (b) (6) @mail.mil < Caution-mailto: (b) (6) @mail.mil >

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those provisions. If you have received this correspondence in error, please notify the sender at once and destroy any copies you have made.

-----Original Message-----

From: (b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com > [Caution-mailto:(b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com? >]
Sent: Thursday, September 14, 2017 9:10 PM
To: (b) (6) CIV USN (US)
Cc: (b) (6) CIV USN BUMED FCH VA (US); Garcia, Della W CIV USN BUMED FCH VA (US)
Subject: [Non-DoD Source] Re: Re: FOIA Request DON-NAVY-2017-009256 Submitted

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Dear Captain Meyers,

I received your interim reply indicating that you are gathering responsive records. Thank you.

My interest in seeking these records is very, very narrow. BUMED, Ms Garcia, Mr (b) (6) need not be concerned in that regard.

That said, while I am not anticipating any issues with BUMED's impending reply being a complete one, I am very mindful of some DOD FOIA practices. As a career naval officer, you would be aware of various avenues of redress. I would very much like to avoid any of that.

I am providing you below narrative information that I normally include in other FOIA requests, just so that you have it. I omitted this in my FOIA Request to BUMED, not anticipating then and still not anticipating any disputes.

Regarding judicial review, should that be necessary (along with sworn declarations), please consider, from the perspective of BUMED:

IMPACT OF IMPROPERLY WITHHOLDING RECORDS

Pursuant to FOIA:

"Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends." 5 U.S.C. § 552(a)(4)(F)(i).

DESTRUCTION, ALTERATION OR FALSIFICATION OF RECORDS

"Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both." 18 U.S. Code § 1519 - Destruction, alteration, or falsification of records.

PERJURY

Whoever-

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

18 U.S. C. § 1621 - Perjury generally (June 25, 1948, ch. 645, 62 Stat. 773 < Caution-Caution-
<http://uscode.house.gov/statviewer.htm?volume=62&page=773> < Caution-
<http://uscode.house.gov/statviewer.htm?volume=62&page=773> > > ; Pub. L. 88-619, §1, Oct. 3, 1964, 78 Stat. 995 < Caution-Caution-
<http://uscode.house.gov/statviewer.htm?volume=78&page=995> < Caution-
<http://uscode.house.gov/statviewer.htm?volume=78&page=995> > > ; Pub. L. 94-550, §2, Oct. 18, 1976, 90 Stat. 2534 < Caution-Caution-
<http://uscode.house.gov/statviewer.htm?volume=90&page=2534> < Caution-
<http://uscode.house.gov/statviewer.htm?volume=90&page=2534> > > ; Pub. L. 103-322, title XXXIII, §330016(1)(i), Sept. 13, 1994, 108 Stat. 2147. < Caution-Caution-
<http://uscode.house.gov/statviewer.htm?volume=108&page=2147> < Caution-
<http://uscode.house.gov/statviewer.htm?volume=108&page=2147> > >

Thank you.

With my respect,

Robert Hammond

In a message dated 9/7/2017 5:40:41 AM Eastern Standard Time, (b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com > writes:

Dear Ms. Garcia, Mr. (b) (6)

As a polite reminder, my attached FOIA Request seeking FY 2013 Privacy Act Report submissions is now timely for judicial review.

In good faith, please promptly release all records that I am seeking without redaction. These records were all in the Agency's custody at the time of my request for them.

I am adding the Defense Privacy and Civil Liberties Office for information. Ms. Chin and Ms Allard have, to date, been very helpful in timely resolving such matters within DOD. There are also multiple avenues for redress.

Thank you.

Best...

With my respect,

Robert Hammond

Copy to: No others

In a message dated 8/31/2017 12:43:04 PM Eastern Standard Time, (b) (6) @aol.com < Caution-mailto (b) (6) @aol.com > < Caution-Caution-mailto (b) (6) @aol.com < Caution-mailto (b) (6) @aol.com? > > writes:

Dear Ms. Garcia,

To assist you in your timely review of the responsive records that are in your possession, there should be no redaction of information related to the report submitter. The names, phone numbers and email addresses of the Privacy Officers are posted on public web sites and in the public domain through countless correspondences and FOIA request-released records, which is also true for Agency FOIA Officers. Attached is one sample.

Also, all Privacy Act related records are required to be retained for six years.

Please contact me if you have any questions or if I may assist you further.

Thank you, again. Best...

With my respect,

Robert Hammond

From: (b) (6) @aol.com < Caution-mailto (b) (6) @aol.com > < Caution-Caution-mailto (b) (6) @aol.com < Caution-mailto (b) (6) @aol.com? > >
To: (b) (6) @mail.mil < Caution-mailto (b) (6) @mail.mil > < Caution-Caution-mailto (b) (6) @mail.mil < Caution-mailto (b) (6) @mail.mil? > >
Cc: (b) (6) @mail.mil < Caution-mailto (b) (6) @mail.mil > < Caution-Caution-mailto (b) (6) @mail.mil < Caution-mailto (b) (6) @mail.mil? > >

Sent: 8/27/2017 8:56:20 AM Eastern Standard Time

Subject: Re: RE: [Non-DoD Source] Fwd: FOIA Request DON-NAVY-2017-009256 Submitted

Dear Ms. Garcia,

I am following up on my request below.

The records that I am seeking were in the agency's possession at the time of my FOIA Request for them. My Request identifies the legal requirement to preserve such records and records of your searches for judicial review. This request will soon be timely for judicial review. As you know there are also other remedies for redress, if records are deleted.

Thank you so very much for your prompt consideration of my request.

With my respect,

Robert Hammond

In a message dated 8/9/2017 9:40:47 AM Eastern Standard Time, (b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil > < Caution-Caution-mailto:(b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil? > > writes:

Good morning. I have received your request and will process it as quickly as possible.

v/r Della

Della W. Garcia

FOIA/PA Paralegal Specialist Bureau of Medicine and Surgery Medical-Legal Affairs Office 7700 Arlington Blvd Ste 5124 Falls Church, VA 22042-5124 COMM (b) (6) @mail.mil FOR < Caution-mailto:(b) (6) @mail.mil FOR > < Caution-Caution-mailto:(b) (6) @mail.mil FOR < Caution-mailto:(b) (6) @mail.mil FOR > > OFFICIAL USE ONLY (FOUO) - PRIVACY SENSITIVE. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.-----Original Message-----From: (b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com > < Caution-Caution-mailto:(b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com? > > [Caution-Caution-mailto:(b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com? > < Caution-Caution-mailto:(b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com? > >] Sent: Tuesday, August 08, 2017 4:16 PM To: Garcia, Della W CIV USN BUMED FCH VA (US) Cc: (b) (6) CIV USN BUMED FCH VA (US); (b) (6) @aol.com Subject < Caution-mailto:(b) (6) @aol.com Subject > < Caution-Caution-mailto:(b) (6) @aol.com Subject < Caution-mailto:(b) (6) @aol.com Subject? > > : [Non-DoD Source] Fwd: FOIA Request DON-NAVY-2017-009256 Submitted All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser. Dear Ms Garcia, Please see the FOIAonline submission of this request, forwarded to Mr (b) (6) yesterday for cross-reference to your files. Thank you in advance for your prompt consideration of my request. Please let me know if there is any clarification or anything more that you need from me. Thank you again. With my respect, Robert Hammond From: DONFOIA-PA@navy.mil < Caution-mailto:PA@navy.mil > < Caution-Caution-mailto:PA@navy.mil < Caution-mailto:PA@navy.mil? > > To: (b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com > < Caution-Caution-mailto:(b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com? > > Sent: 8/7/2017 9:08:27 PM Eastern Standard Time Subject: FOIA Request DON-NAVY-2017-009256 Submitted This message is to confirm your request submission to the FOIAonline application: View Request < Caution-Caution-Caution-https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d2814dacd4 < Caution-

<https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d2814dacd4> > < Caution-
 Caution-<https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d2814dacd4> <
 Caution-<https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d2814dacd4> > > > .
 Request information is as follows: * Tracking Number: DON-NAVY-2017-009256 * Requester Name: robert hammond *
 Date Submitted: 08/07/2017 * Request Status: Submitted * Description: (b) (6) Navy Bureau of Medicine and
 Surgery, (BUMED) (b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil > < Caution-Caution-
 mailto:(b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil? > > < Caution-Caution-Caution-
 mailto:(b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil? > < Caution-Caution-
 mailto:(b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil? > ? > > (b) (6) Subject: FOIA
 Request – Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports Requester Personal Reference Number:
 FOIA DON 17-D References: (a) The Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 et seq., as amended, (b) Joint
 publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of
 July 2011, “Your Right to Federal Records” (c) The Privacy Act (“PA”) of 1974, 5 U.S.C. § 552a, et seq., as amended (d)
 DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program (e) DoD 5400.7-R, September 1998, DoD
 Freedom of Information Act (FOIA) Program (f) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
 (g) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation (i) GAO Report GAO-12-828 of July 2012,
 subject Freedom of Information Act (j) Department of Justice Handbook for Agency Annual Freedom of Information Act
 Reports Dear Sir: I am submitting this request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 et seq., as
 amended. If you deny all or any part of this request, please cite each specific exemption you think justifies your decision
 not to release the information and notify me of appeal procedures available under the law. References cited above
 apply. This confirms my conversation with Mr. (b) (6) of today who is on possession of the records that I am
 seeking. Thank you, sir. BACKGROUND. Pursuant to 42 U.S.C. 2000ee-1, DOD submits Quarterly (now semi-annual)
 Privacy Reports to Congress, The DOD report is consolidated and submitted by the Defense Privacy and Civil Liberties
 Office (DPCLO). FY 2014 and later reports may be found at Caution-Caution-Caution-<http://dpcl.d.defense.gov/Reports/> <
 Caution-<http://dpcl.d.defense.gov/Reports/> > < Caution-Caution-<http://dpcl.d.defense.gov/Reports/> < Caution-
<http://dpcl.d.defense.gov/Reports/> > > < Caution-Caution-Caution-<http://dpcl.d.defense.gov/Reports/> < Caution-
<http://dpcl.d.defense.gov/Reports/> > < Caution-Caution-<http://dpcl.d.defense.gov/Reports/> < Caution-
<http://dpcl.d.defense.gov/Reports/> > > > . RECORDS SOUGHT VIA FOIA. I am respectfully seeking all of the sub-unit/sub-
 element reports input subm

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Wednesday, October 04, 2017 3:33 PM
To: Myers, Pamela A CAPT USN BUMED FCH VA (US)
Subject: FW: [Non-DoD Source] DOD Policy, Exemption 6. Also, Exemption 5 + FOIA/PA Reporting

FYI...No action, addressed to Ms. Allard.

v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste (b) (6)
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil

FOR OFFICIAL USE ONLY (FOUO) - PRIVACY SENSITIVE. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.

-----Original Message-----

From: (b) (6) @apl.com [mailto:(b) (6) @aol.com]
Sent: Wednesday, October 04, 2017 3:26 PM
To: Allard, Cindy L CIV OSD ODCMO (US)
Cc: Faison, C Forrest (Forrest) VADM USN BUMED FCH VA (US); Moulton, Terry J RADM USN BUMED FCH VA (US); Bono, Raquel C VADM USN DHA (US); (b) (6) @dha.mil
Subject: [Non-DoD Source] DOD Policy, Exemption 6. Also, Exemption 5 + FOIA/PA Reporting

Dear Ms. Allard,

First, thank you for all that you and your staff are doing WRT the integrity of the FOIA/PA processes and the accuracy of reporting. I appreciate it.

With my deep respect, I am seeking a policy determination from your office regarding DOD's interpretation of/policy for using the FOIA (b)(6) privacy exemption.

May I ask:

- Do the names of Agency's have privacy rights?
- Ordinary building names?
- Military Treatment Facility names?
- FOIA Officer names?
- Multi- function printer, copier, scanner, fax machines? This last rather odd issue came up recently WRT Walter Reed.

As you know, in a GAO audit requested by the Attorney General, DOD was singled out (along with three other federal agencies) regarding concerns over miss-use of this exemption, misuse the (b)(5) exemption and errant FOIA tracking and

reporting to the Attorney General. For some time, DOJ required DOD to submit quarterly FOIA Reports and ODCMO required additional data.

As you know, I am concerned that many of these same errant practices that DOD promised to fix are still ongoing and that internal controls may be being overridden.

Still a DOJ/GAO concern.

With my deep respect,

Robert Hammond

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Thursday, October 05, 2017 9:35 AM
To: Myers, Pamela A CAPT USN BUMED FCH VA (US)
Subject: FW: [Non-DoD Source] Appeal ,DON-NAVY-2017-009256; also, BUMED F17-073 Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports
Attachments: Appeal DON 17D FY 2013 Quarterly PA Reports.w attachments.pdf

Good morning.

FYI....no action from us at this time.

v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste (b) (6)
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil

FOR OFFICIAL USE ONLY (FOUO) - PRIVACY SENSITIVE. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.

-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]
Sent: Thursday, October 05, 2017 9:14 AM
To: Lattin, Grant E CIV USN NAVCIVLAWSUPPACT DC (US); dam.inch@navy.mil
Cc: Faison, C Forrest (Forrest) VADM USN BUMED FCH VA (US); Moulton, Terry J RADM USN BUMED FCH VA (US)
Subject: [Non-DoD Source] Appeal ,DON-NAVY-2017-009256; also, BUMED F17-073 Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

My Personal Reference Number: FOIA DON 17-D

DON Assigned Agency FOIA Case Number: DON-NAVY-2017-009256; also, BUMED F17-073

From: DONFOIA-PA@navy.mil
To: (b) (6) @aol.com
Sent: 10/5/2017 8:57:19 AM Eastern Standard Time
Subject: FOIA Request DON-NAVY-2018-000111 Submitted

This message is to confirm your request submission to the FOIAonline application: View Request < Caution-
<https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d28162ef5f> > . Request
information is as follows:

* Tracking Number: DON-NAVY-2018-000111
* Requester Name: robert hammond
* Date Submitted: 10/05/2017
* Request Status: Submitted

* Description: This is an appeal of DON Assigned Agency FOIA Case Number: DON-NAVY-2017-009256; also, BUMED F17-073. Entering here to ensure that is electronically recorded, which has been problematic in the past. . Appeal of FOIA Request – Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports . Basis for Appeal. 1. I am appealing that the Records that I am seeking were in the possession of BUMED at the time that I sought them in my Request. 2. See FOIA Request at Enclosure 1. 3. See also and address as part of this appeal the questions for Mr. (b) (6) at Enclosure 3, noting that offices are not persons (and office designations can change over time). Those questions for Mr. (b) (6) are, quote: a. With respect, do you personally have knowledge of responsive records that existed at the time of my request that were not released? b. With respect, do you personally have knowledge of responsive records that were destroyed subsequent to my request? c. With respect, do you personally have knowledge of any Privacy Act Complaints that were not reported? d. With respect, do you recall the details of our telephone conversations? 4. I am appealing that BUMED did not conduct an adequate search for responsive records that at existed at the time of my request in a manner likely to locate all responsive records. BUMED has been advised to preserve all potentially responsive records and all records of any searches until judicial review. 5. I am appealing that, in addition to BUMED, responsive record were in the possession of DOD or one of its components at the time of my request. DOD, DON, BUMED conducted no searches for these records. 6. I am appealing that the Agency has improperly denied portions of my request under 5 U.S.C. 552(b)(6). 7. Please see and address as part of my appeal, the appellate authority's coordination with ODCMO regarding my correspondence seeking (prior to this appeal) DOD's position regarding Exemption 6.

=====

Robert Hammond

(b) (6)

October 5, 2017

Office of the Judge Advocate General

General Litigation Division (Code 14)

1322 Patterson Ave., SE, Suite 3000

Washington Navy Yard, DC 20374-5066

Via; Caution-<https://foiaonline.regulations.gov>

Subject: Appeal of FOIA Request – Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports

My Personal Reference Number: FOIA DON 17-D

DON Assigned Agency FOIA Case Number: DON-NAVY-2017-009256; also, BUMED F17-073

References: (a) The Freedom of Information Act (FOIA)

(b) The Privacy Act

(c) CFR 164.526

(d) DoD 5700.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program

(e) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

(e) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011: "Your Right to Federal Records" (see Caution-
<http://publications.usa.gov/USAPubs.php?PubID=6080> < Caution-<http://publications.usa.gov/USAPubs.php?PubID=6080>
>)

(g) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program

(h) Department of Justice Freedom of Information Act Guide, May 2004 at Exemption 6 Caution-
<http://www.justice.gov/oip/foia-guide-2004-edition-exemption-6> < Caution-<http://www.justice.gov/oip/foia-guide-2004-edition-exemption-6>
>

Dear Sir:

This appeal is submitted under the references above for my FOIA request at Enclosure 1. The Agency's reply is at Enclosure 2.

My correspondence to Navy BUMED, including Vice Admiral Clinton F. Faison (b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil >), and Admiral Terry. J. Moulton (b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil >), is at enclosure 3. My correspondence to the DOD Office of the Deputy Chief Management Officer seeking, with deep respect and appreciation, the DOD policy regarding the (b)(5) exemption is at enclosure 4

This appeal will be timely for judicial review within twenty working days. Please preserve all records for judicial review. There are also other avenues for redress, particularly in the event that responsive records were deleted subsequent to my request.

BACKGROUND. Pursuant to 42 U.S.C. 2000ee-1, DOD submits Quarterly (now semi-annual) Privacy Reports to Congress. The DOD report is consolidated and submitted by the Defense Privacy and Civil Liberties Office (DPCLO). FY 2014 and later reports may be found at Caution-http://dpcl.d.defense.gov/Reports < Caution-http://dpcl.d.defense.gov/Reports > .

Records Sought Under the FOIA.

"I am respectfully seeking all of the sub-unit/sub-element reports input submissions to Navy BUMED for the four FY 2013 Quarterly Privacy Act Reports, including the forwarding correspondences thereof (whether by email, fax or other) and any attachments. FY 2013 began on October 1, 2012 and ended on September 30, 2013.

I am also seeking any FY 2013 data call emails governing reporting.

Mr. (b) (6) is in possession of these records, [as well as others in DOD].

I am also requesting that a copy of this FOIA Request (which is an agency record) be included as a responsive record integral to my Request."

Basis for Appeal.

1. I am appealing that the Records that I am seeking were in the possession of BUMED at the time that I sought them in my Request.

2. See FOIA Request at Enclosure 1.

3. See also and address as part of this appeal the questions for Mr. (b) (6) at Enclosure 3, noting that offices are not persons (and office designations can change over time). Those questions for Mr. (b) (6) are, quote:

a. With respect, do you personally have knowledge of responsive records that existed at the time of my request that were not released?

b. With respect, do you personally have knowledge of responsive records that were destroyed subsequent to my request?

c. With respect, do you personally have knowledge of any Privacy Act Complaints that were not reported?

d. With respect, do you recall the details of our telephone conversations?

4. I am appealing that BUMED did not conduct an adequate search for responsive records that at existed at the time of my request in a manner likely to locate all responsive records. BUMED has been advised to preserve all potentially responsive records and all records of any searches until judicial review.

5. I am appealing that, in addition to BUMED, responsive record were in the possession of DOD or one of its components at the time of my request. DOD, DON, BUMED conducted no searches for these records.

6. I am appealing that the Agency has improperly denied portions of my request under 5 U.S.C. 552(b)(6).

7. Please see and address as part of my appeal, the appellate authority's coordination with ODCMO regarding my correspondence seeking (prior to this appeal) DOD's position regarding Exemption 6. The appellate authority's final determination becomes the DOD position with respect to this appeal in any further proceedings.

8. BUMED, a component of DON and DOD, is improperly redacting under exemption (b)(6):

a. Agency names;

b. Ordinary building names;

c. Military Treatment Facility names;

d. Privacy Officer names.

9. I am appealing that the Agency did not provide records in the requested format as single PDF file by return email.

10. I am appealing that the Agency did not return a copy of my Request as part of their initial determination letter, which is a record sought in my Request.

Appellate Authority Action Requested. I am asking that:

(1) each of the elements of the basis of my appeal be addressed separately;

(2) each element of my appeal be sustained;

- (3) all records of agency searches and FOIA case files be brought fully into your appeal files;
- (4) my FOIA request be remanded back to the Agency for direct reply to me; and that,
- (5) I be granted new appellate rights following a subsequent reply by the Agency.

With my respect,

Robert Hammond

Enclosures:

1. Hammond FOIA Request DON 17-D; Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports
2. Agency Initial Determination Letter
3. Hammond email thread of Wed, Oct 4, 2017 6:36 am to (b) (6) Vice Admiral Clinton F. Faison and Admiral Terry. J. Moulton (and others in that thread)
4. Hammond email of Wed, Oct 4, 2017 3:26 pm to ODCMO seeking policy guidance on Exemption 6, with copies to Vice Admiral Clinton F. Faison (BUMED), Admiral Terry. J. Moulton (BUMED), Vice Admiral Rachael C. Bono (DHA) and Mr. Guy. T. Kiyokowa (DHA) and others

Robert Hammond

(b) (6)

(b) (6)

@aol.com

October 5, 2017

Office of the Judge Advocate General
General Litigation Division (Code 14)
1322 Patterson Ave., SE, Suite 3000
Washington Navy Yard, DC 20374-5066
Via; <https://foiaonline.regulations.gov>

Subject: Appeal of FOIA Request – Component Input to BUMED; FY 2013
Quarterly Privacy Act Reports

My Personal Reference Number: FOIA DON 17-D

DON Assigned Agency FOIA Case Number: DON-NAVY-2017-009256; also, BUMED F17-073

- References:
- (a) The Freedom of Information Act (FOIA)
 - (b) The Privacy Act
 - (c) CFR 164.526
 - (d) DoD 5700.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
 - (e) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation
 - (e) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011: "Your Right to Federal Records" (see <http://publications.usa.gov/USAPubs.php?PubID=6080>)
 - (g) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
 - (h) Department of Justice Freedom of Information Act Guide, May 2004 at Exemption 6 <http://www.justice.gov/oip/foia-guide-2004-edition-exemption-6>
 - (i) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act

Dear Sir:

This appeal is submitted under the references above for my FOIA request at Enclosure 1. The Agency's reply is at Enclosure 2.

My correspondence to Navy BUMED, including Vice Admiral Clinton F. Faison (b) (6) @mail.mil, and Admiral Terry. J. Moulton (b) (6) @mail.mil, is at enclosure 3. My correspondence to the DOD Office of the Deputy Chief Management Officer seeking, with deep respect and appreciation, the DOD policy regarding the (b)(5) exemption is at enclosure 4

This appeal will be timely for judicial review within twenty working days. Please preserve all records for judicial review. There are also other avenues for redress, particularly in the event that responsive records were deleted subsequent to my request.

BACKGROUND. Pursuant to 42 U.S.C. 2000ee-1, DOD submits Quarterly (now semi-annual) Privacy Reports to Congress. The DOD report is consolidated and submitted by the Defense Privacy and Civil Liberties Office (DPCLO). FY 2014 and later reports may be found at <http://dpcld.defense.gov/Reports>.

Records Sought Under the FOIA.

"I am respectfully seeking all of the sub-unit/sub-element reports input submissions to Navy BUMED for the four **FY 2013** Quarterly Privacy Act Reports, including the forwarding correspondences thereof (whether by email, fax or other) and any attachments. FY 2013 began on October 1, 2012 and ended on September 30, 2013.

I am also seeking any FY 2013 data call emails governing reporting.

Mr. **(b) (6)** is in possession of these records, [as well as others in DOD].

I am also requesting that a copy of this FOIA Request (which is an agency record) be included as a responsive record integral to my Request."

Basis for Appeal.

1. **I am appealing that** the Records that I am seeking were in the possession of BUMED at the time that I sought them in my Request.
2. *See* FOIA Request at Enclosure 1.
3. *See also* and address as part of this appeal the questions for Mr. **(b) (6)** at Enclosure 3, noting that offices are not persons (and office designations can change over time). Those questions for Mr. **(b) (6)** are, quote:
 - a. With respect, do you personally have knowledge of responsive records that existed at the time of my request that were not released?
 - b. With respect, do you personally have knowledge of responsive records that were destroyed subsequent to my request?
 - c. With respect, do you personally have knowledge of any Privacy Act Complaints that were not reported?
 - d. With respect, do you recall the details of our telephone conversations?
4. **I am appealing that** BUMED did not conduct an adequate search for responsive records that at existed at the time of my request in a manner likely to locate all responsive records. BUMED has been advised to preserve all potentially responsive records **and** all records of any searches until judicial review.
5. **I am appealing that,** in addition to BUMED, responsive record were in the possession of DOD or one of its components at the time of my request. DOD, DON, BUMED conducted no searches for these records.
6. **I am appealing that** the Agency has improperly denied portions of my request under 5 U.S.C. 552(b)(6).
7. Please see and address as part of my appeal, the appellate authority's coordination with

ODCMO regarding my correspondence seeking (prior to this appeal) DOD's position regarding Exemption 6. The appellate authority's final determination becomes the DOD position with respect to this appeal in any further proceedings.

8. BUMED, a component of DON and DOD, is improperly redacting under exemption (b)(6):
 - a. Agency names;
 - b. Ordinary building names;
 - c. Military Treatment Facility names;
 - d. Privacy Officer names.
9. **I am appealing that** the Agency did not provide records in the requested format as single PDF file by return email.
10. **I am appealing that** the Agency did not return a copy of my Request as part of their initial determination letter, which is a record sought in my Request.

Appellate Authority Action Requested. I am asking that:

- (1) each of the elements of the basis of my appeal be addressed separately;
- (2) each element of my appeal be sustained;
- (3) all records of agency searches and FOIA case files be brought fully into your appeal files;
- (4) my FOIA request be remanded back to the Agency for direct reply to me; and that,
- (5) I be granted new appellate rights following a subsequent reply by the Agency.

With my respect,

(b) (6)

Robert Hammond

Enclosures:

1. Hammond FOIA Request DON 17-D; Component Input to BUMED; **FY 2013** Quarterly Privacy Act Reports
2. Agency Initial Determination Letter
3. Hammond email thread of Wed, Oct 4, 2017 6:36 am to **(b) (6)**, Vice Admiral Clinton F. Faison and Admiral Terry. J. Moulton (and others in that thread)
4. Hammond email of Wed, Oct 4, 2017 3:26 pm to ODCMO seeking policy guidance on Exemption 6, with copies to Vice Admiral Clinton F. Faison (BUMED), Admiral Terry. J. Moulton (BUMED), Vice Admiral Rachael C. Bono (DHA) and Mr. Guy. T. Kiyokowa (DHA) and others

ENCLOSURE 1

Hammond FOIA Request DON 17-D: Component Input to
BUMED; **FY 2013** Quarterly Privacy Act Reports

Robert Hammond

(b) (6)

(b) (6) @aol.com

August 7, 2017

(b) (6)

Navy Bureau of Medicine and Surgery, (BUMED)

(b) (6) @mail.mil

Subject: FOIA Request – Component Input to BUMED; **FY 2013** Quarterly
Privacy Act Reports

Requester Personal Reference Number: FOIA DON 17-D

References: (a) The Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, as amended,
(b) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, “Your Right to Federal Records”
(c) The Privacy Act (“PA”) of 1974, 5 U.S.C. § 552a, *et seq.*, as amended
(d) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(e) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(f) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(g) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation
(i) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act
(j) Department of Justice Handbook for Agency Annual Freedom of Information Act Reports

Dear Sir:

I am submitting this request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, as amended. If you deny all or any part of this request, please cite each specific exemption you think justifies your decision not to release the information and notify me of appeal procedures available under the law. References cited above apply.

This confirms my conversation with Mr. (b) (6) of today who is on possession of the records that I am seeking. Thank you, sir.

BACKGROUND. Pursuant to 42 U.S.C. 2000ee-1, DOD submits Quarterly (now semi-annual) Privacy Reports to Congress, The DOD report is consolidated and submitted by the Defense

Privacy and Civil Liberties Office (DPCLO). FY 2014 and later reports may be found at <http://dpold.defense.gov/Reports/>.

RECORDS SOUGHT VIA FOIA.

I am respectfully seeking all of the sub-unit/sub-element reports input submissions to Navy BUMED for the four **FY 2013** Quarterly Privacy Act Reports, including the forwarding correspondences thereof (whether by email, fax or other) and any attachments. FY 2013 began on October 1, 2012 and ended on September 30, 2013.

I am also seeking any FY 2013 data call emails governing reporting.

Mr. **(b) (6)** ⁱⁿ is ~~on~~ possession of these records.

I am also requesting that a copy of this FOIA Request (which is an agency record) be included as a responsive record integral to my Request.

REQUESTED FORMAT. I am respectfully requesting that documents be provided as a single PDF file by return email

AGREEMENT TO PAY FEES. I agree to pay fees for searching or copying the records up to \$150. If the fees exceed this amount please advise me of the cost before proceeding. I do not believe that there should be any charge for providing these records, as there is public interest in government operations. I am a private individual not seeking documents for commercial use, such that the following applies: "No fees may be charged by any DoD Component if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee. With the exception of requesters seeking documents for a commercial use, Components shall provide the first two hours of search time, and the first one hundred pages of duplication without charge." I would note that because I am requesting a PDF file, there should not be a per page copy fee.

PUBLIC INTEREST. The subject of the requested records concerns "the operations or activities of the government." The disclosure is "likely to contribute" to an understanding of government operations or activities. There is no commercial interest. There is significant public interest in Privacy Act reporting to Congress.

PRESERVATION OF RECORDS AND SEARCHES PERFORMED. Please preserve all responsive or potentially responsive records and records of your searches in your FOIA case file until the statutory date for judicial review has passed (should that be necessary) or in accordance with a NARA approved records schedule, if longer. Records of responsive searches would include but not be limited to: Searches conducted for each specific record sought and all other records known to the Agency, including dates, manner of searching, responsible agent or employee conducting each search and the results thereof.

LEGAL FRAMEWORK OF FOIA

1. The definition of "records" includes:
"[A]ll books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made *or received* by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them." 44 U.S.C. § 3301 (emphasis supplied).
2. FOIA requires that "each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person" 5 U.S.C. § 552(a)(3)(A).
3. FOIA requires that "each agency shall establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request" 5 U.S.C. § 522(a)(7)(A).
4. FOIA requires that each agency shall "establish a telephone line or Internet service that provides information about the status of a request to the person making the request using the assigned tracking number, including the date on which the agency originally received the request; and an estimated date on which the agency will complete action on the request. 5 U.S.C. § 522(a)(7)(B).
5. FOIA also requires federal agencies to make a final determination on FOIA administrative appeals that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal, unless the agency expressly provides notice to the requester of "unusual circumstances" meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(ii).
6. FOIA expressly provides that a person shall be deemed to have constructively exhausted their administrative remedies if the agency fails to comply with the applicable time limitations provided by 5 U.S.C. § 552(a)(6)(A)(I) - (ii). *See also* 5 U.S.C. § 552(a)(6)(C).
7. FOIA provides that any person who has not been provided the records requested pursuant to FOIA, after exhausting their administrative remedies, may seek legal redress from the Federal District Court to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.
8. Regarding the names of the FOIA requesters, the courts have held that under the FOIA requesters do not have an expectation of privacy. *Stauss v. IRS*, 516 F. Supp. 1218, 1223 (D.D.C. 1981),
9. Under FOIA, the federal agency has the burden of sustaining its actions. 5 U.S.C. § 552(a)(4)(B).
10. Pursuant to FOIA, a Court may assess attorney fees and litigation costs against the United States if the Plaintiff prevails in an action thereunder. 5 U.S.C. § 552(a)(4)(E).
11. Department of Justice (DOJ) has issued a handbook addressing FOIA Annual Reports. *See DOJ, Handbook for Agency Annual Freedom of Information Act Reports*, "Disposition of FOIA Requests," (available at

http://www.justice.gov/sites/default/files/oip/pages/attachments/2014/11/04/department_of_justice_handbook_for_agency_annual_freedom_of_information_act_reports.pdf) ("DOJ Handbook").

12. Among other things, the DOJ Handbook states, "All requests (perfected and non-perfected), appeals, and consultations that were pending at any time during the relevant fiscal year [October 1st through September 30th] will be captured."

13. The DOJ Handbook also states:

"[E]ach agency is ultimately responsible for the accuracy and completeness of its Annual FOIA Report. It is therefore essential for agencies to take steps that will ensure that they are adequately tracking all of the information necessary to complete the Annual FOIA Report sections detailed below. Agencies that utilize a tracking or case management system for this purpose are responsible for ensuring that the system they are using can produce an accurate Annual FOIA Report that is in compliance with the law and Department of Justice guidance." DOJ Handbook, at 3.

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request. If you deem that any portion of my request is unclear, answer the remaining portions and I will perfect a request for additional material as needed.

Thank you very much in advance.

With my respect,

(b) (6)

Robert Hammond

ENCLOSURE 2

Agency Initial Determination Letter



DEPARTMENT OF THE NAVY
BUREAU OF MEDICINE AND SURGERY
7700 ARLINGTON BOULEVARD
FALLS CHURCH, VA 22042

IN REPLY REFER TO
5720/F17-073
Ser M00JE/17UM00J0200
September 20, 2017

Mr. Robert Hammond

(b) (6)

Dear Mr. Hammond,

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST – BUMED F17-073

This is a supplemental response to your Freedom of Information Act (FOIA) request of August 7, 2017 to the Chief of Naval Operations Freedom of Information Act office. In your request, you are seeking FY 2013 Quarterly Privacy Act Reports including “forwarding correspondences thereof (whether by email, fax or other) and any attachments.”

Under the guidelines of the FOIA I have reviewed the responsive documents over which BUMED has cognizance, determined that they are releasable under FOIA and have enclosed them; however, certain identifiers have been removed in accordance with the Freedom of Information Act, 5 U.S.C. § 552 (b)(6) to prevent a clearly unwarranted invasion of personal privacy.

Additionally, BUMED does not possess documents responsive to your request for “forwarding correspondences thereof (whether by email, fax or other) and any attachments” as it follows the guidance established in the Department of the Navy Records Management Program which establishes policies and procedures for life cycle management (creation, maintenance, use, and disposition) of Navy records.

Since your request has been partially denied, you are advised of your right to appeal this determination in writing. Such an appeal, if any, should be addressed to:

Office of the Judge Advocate General (Code 14)
Washington Navy Yard
1322 Patterson Avenue
Washington DC 20374-5066

The appeal must be received within 90 calendar days from the date of my letter and a copy of this correspondence should be attached, along with a statement regarding the basis of your appeal. It is recommended that the letter of appeal and the envelope both bear the notation, “Freedom of Information Act Appeal.”

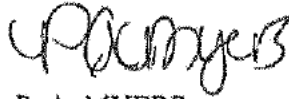
For this determination, you have the right to seek dispute resolution services from the DoD Navy Component FOIA Public Liaison, Mr. Chris Julka, at Christopher.a.julka@navy.mil or (703) 697-0031.

5720/F17-073
Ser M00JE/17UM00J0194
September 20, 2017

There are no assessable fees associated with the processing of your request. If you have questions, my point of contact is Ms. Della W. Garcia, who may be contacted at

(b) (6) @mail.mil or (b) (6)

Sincerely,



P. A. MYERS
Captain
Judge Advocate General's Corps
United States Navy
Staff Judge Advocate
By direction of the Chief,
Bureau of Medicine and Surgery

Enclosure: FY13 Quarterly Privacy Act Reports

References: Public Law 110-53, Sec. 803 and OMB Circular A-130, Appendix I

DON Component: BUMED
Reporting Quarters: FY2013 1st QTR (Oct. - Dec.)

REPORTS ARE DUE TO DHS-36 BY COB JAN 8TH

Reviews	
Types of Reviews ¹	Number of Reviews
Privacy Act Statements (PAS)	50
Computer Matching Agreements (CMAs)	DFCLO will complete this field
Section (n) Contractor Review	2
Total Number of Reviews 52	

¹ A review is an activity to ensure compliance with requirements established in controlling authorities such as the Privacy Act of 1974, 5 U.S.C. 552a; OMB Circular A-130, Appendix I; and OMB Memo 14-02-16. Examples of reviews may include a Privacy Impact Assessment, OMB Circular A-130 Privacy Act reviews (new and updated system of records reviews and reviews of proposed rules for Privacy Act exemptions), or OMB Circular A-130 Computer Matching reviews.

Contractor Responsibilities	
Are contractor(s) aware of Privacy Act responsibilities and DoD 5400.11-R7?	<Select One>
Have contractor employees completed DoD Component Privacy Act training?	<Select One>

Privacy Complaints and Dispositions		
Type/Nature of Complaint ¹	Number of Complaints	Responsive Action Taken ¹
1. Process and Procedure ²	42	Pending ³
2. Redress ⁴	0	12
3. Operational ⁵	0	
4. Referred to Other Agency	0	
4. Other, Please Explain	0	
Total Number of Complaints this Quarter		30
		12

¹ A complaint is an assertion alleging a violation of privacy under civil liberties. Privacy complaints typically allege violations of: (1) process and procedural issues (process, collection, disclosure, and notice); (2) redress (non-Privacy Act inquiries seeking resolution of difficulties about privacy matters); or (3) operational issues (privacy for matters not including requests for access, disclosure, and/or amendment).

² Responsive action taken means the complaint was reviewed and a responsive action was taken under the complaint was resolved.

³ Pending means that the complaint is being reviewed to determine the responsive action and/or resolution.

⁴ Redress: Non-Privacy Act inquiries seeking resolution of difficulties about privacy matters.

⁵ Operational issues: Privacy Act matters not including requests for access, disclosure, and/or amendment.

Type of Advice Provided and the Response to Advice	
Advice Provided ⁶	Response to Advice ⁷

⁶ Advice provided is the written issuance of policies, procedures, or guidance pertaining to privacy issued by: (1) the Head of the OSD and DoD Components; or (2) Component Senior Officials for Privacy.

⁷ Response to advice is specific action taken by a DoD Component implementing the advice provided by (1) the Head of the OSD and DoD Components; or (2) Component Senior Officials for Privacy. Examples of a response to advice may include: guidance, new procedures, or training.

1st QTR (Oct-Dec)
2nd QTR (Jan-Mar)
3rd QTR (Apr-Jun)
4th QTR (Jul-Sept)

SORIS Report

DOJ Components: BUREAU
Reporting Quarters: FY2013 1st QTR (Oct - Dec)

References: Public Law 110-53, Sec. 803 and OMB Circular A-130, Appendix I

REPORTS ARE DUE TO DHS-26 BY COB JAN 8TH!

PRIVACY ACT SYSTEM OF RECORDS NOTICES REVIEW REPORT									
How many SORIS reviewed/updated within the past 2 years mandated by Circular A-130?		Number Reviewed this quarter/Total reviewed to date <Explain deviation below 12.5% per quarter>							
How many SORIS have been reviewed for "Pending" NARA approved retention?		Number reviewed/Total Number <All pending are reported quarterly>							
SORIS REVIEWED THIS QUARTER									
SORN ID and NAME	Federal Register Page Number & Date	Accurately Describes System of Records	Accurately Describes NARA's Retention & Disposal	Routine Use Disclosures Still Appropriate	Is an Exemptions Still Required	Section (b) Contractor Review Complete	OMB Control Number Requirement Met		
N06150-1 Medical Department Professional/Technical Personnel Development		Yes	Yes	Yes	Yes	Yes			
N06150-2 Health Care Record System		Yes	Yes	Yes	Yes	Yes			
N0620-1 Health Care Accounts and Insurance Information		Yes	Yes	Yes	Yes	Yes			
N0620-3 Quality Assurance/Risk Management		Yes	Yes	Yes	Yes	Yes			
N0620-4 Blood Donor Files		(Select One)	(Select One)	(Select One)	(Select One)	(Select One)	(Select One)		
		(Select One)	(Select One)	(Select One)	(Select One)	(Select One)	(Select One)		
Total Number of SORIS Reviewed this Quarter:								5	

BUREAU OF MEDICINE AND SURGERY

**SECTION 803 OF 9/11 COMMISSION ACT OF 2007
DETAILS OF PRIVACY COMPLAINTS AND DISPOSITIONS
1ST QTR FY13 – OCTOBER 1, 2012 – DECEMBER 31, 2012**

Agency Name: ^{(b) (6)} _____

Complaint #1

Description of Complaint: Naval Branch Health Clinic ^{(b) (6)} reported a missing Medical Board package.

Findings: The mail receipts show that the Medical Board package was mailed from ^{(b) (6)} and was signed for by the mail room.

Disposition: The Medical Board package was found at the ^{(b) (6)} Clinic. A close out report was being filed.

Complaint #2

Description of Complaint: 22 patient forms were discovered in a hotel room in ^{(b) (6)}

Findings: An Army Government worker was checking out of the ^{(b) (6)} and was checking the drawers and discovered the forms. The concerned individual placed the forms in FEDEX immediately to ^{(b) (6)} for examination.

Disposition: The case was turned over to Command Legal. AHLTA inquiry was initiated on all 22 patients. Letters were sent out.

Complaint #3

Description of Complaint: 15 Medical Records were discovered on a window ledge on the ward floor at ^{(b) (6)}

Findings: Patient Spouse while walking the ward floor came across the Medical Records on the ledge and reported it to staff nurse.

Disposition: Concern was reported to duty COC and PAD filed report within required time frame. The case was turned over to ^{(b) (6)} Legal.

Complaint #4

Description of Complaint: Concerned ex-significant other states that she believes her child's father whom is Active Duty at ^{(b) (6)} may be looking in their child's medical record.

Findings: AHLTA inquiry was ran.

Disposition: The case was turned over to ^{(b) (6)} Legal.

Agency Name: (b) (6)

Complaint # 5

Description of Complaint: Complaint submitted from former employee that her PII was disclosed without authorization to another employee.

Findings: The complaint is still pending investigation due to review of emails and witness statements. To date (b) (6) has not been able to validate the complaint; however, the agency believes the disclosure, if it occurred, was not malicious based on preliminary findings and the complaint would have been incidental with minimal disclosure.

Disposition: A review of policies and practices were conducted per current standard operating procedure. Investigation is still pending.

(b) (6)

Complaint #6

Description of Complaint: A patient requested to have a diagnosis expunged from her medical record.

Findings: unsubstantiated, denied

Disposition: Complaint Closed

Complaint #7

Description of Complaint: Unauthorized disclosure of a patient's PHI.

Findings: substantiated

Disposition: Complaint Closed

Complaint #8

Description of Complaint: Unauthorized disclosure of a patient's PHI

Findings: substantiated.

Disposition: Complaint Closed

Complaint # 9

Description of Complaint: Unauthorized disclosure of a patient's PHI

Findings: unsubstantiated

Disposition: Complaint Closed

Complaint #10

Description of Complaint: Unauthorized disclosure of a patient's PHI and accessing the HER without the need to know.

Findings: Investigation is ongoing

Disposition: Pending

Complaint #11

Description of Complaint: Unauthorized disclosure of a patient's PHI. Clinic phone was forwarded to a patient's personal cell phone.

Findings: Substantiated.

Disposition: Complaint Closed

Complaint #12

Description of Complaint: Staff member forwarded PHI from a government computer to his personal computer at home.

Findings: Investigation is ongoing.

Disposition: Pending

Complaint #13

Description of Complaint: Staff member alleges other staff members accessed her PHI without the need to know.

Findings: Investigation is ongoing.

Disposition: : Pending

Complaint #14

Description of Complaint: (SJA Office (Legal)/BUMED Complaint) Complainant alleges that ship personnel electronically accessed his medical records without appropriate authorization or "need-to-know".

Findings: Substantiated.

Disposition: Closed.

Complaint #15

Description of Complaint: Complainant alleges that she observed members of the medical center allowing inappropriate access to patient's health information.

Findings: Under investigation.

Disposition: Pending

Complaint #16

Description of Complaint: Complainant alleges that members in her chain of command accessed her medical information without a need-to-know or appropriate authorization. Additionally, complainant alleges staff at the medical center disclosed her patient information without appropriate authorization.

Findings: Unsubstantiated.

Disposition: Closed

Complaint #17

Description of Complaint: Complainant alleges that medical center staff accessed and disclosed her electronic PHI to an individual that she did not authorized to have her medical information.

Findings: Under Investigation

Disposition: Pending.

Complaint #18

Description of Complaint: Staff member acknowledged that she copied incorrect information into a patient's record and requested to have erroneous information expunged.

Findings: Under Investigation

Disposition: Pending.

Complaint #19

Description of Complaint: Clinic representative requested to have erroneous information expunged from patient files.

Findings: Under Investigation

Disposition: Pending.

Complaint #20

Description of Complaint: Complainant alleges that someone in his chain of command accessed and disclosed his medical information without appropriate authorization.

Findings: Under Investigation

Disposition: Pending.

Complaint #21

Description of Complaint: Complainant alleges that someone in her chain of command accessed and disclosed her medical information without appropriate authorization.

Findings: Unsubstantiated.

Disposition: Closed.

Complaint #22

Description of Complaint: Complainant alleges that persons without the appropriate authorization forwarded their protected health information in an unprotected electronic message.

Findings: Under Investigation.

Disposition: Pending.

Complaint #23

Description of Complaint: Complainant alleges that one of the areas at the command accessed and disclosed her medical information without appropriate authorization.

Findings: Under Investigation.

Disposition: Pending.

Complaint #24

Description of Complaint: Complainant alleges that one of the areas at the command accessed and disclosed her medical information without appropriate authorization.

Findings: Under Investigation.

Disposition: Pending.

Agency Name: ^{(b) (6)} _____

Complaint #25

Description of Complaint: Complainant that ex-spouse, who is a contract worker for the Naval Hospital, inappropriately accessed patient records.

Findings: An AHLTA audit was requested and it was found that the accused had accessed her ex-husband's records on numerous occasions, even before his transfer to ^{(b) (6)}

Disposition: The matter has been turned over to Command Legal and an investigation has ensued. The case is still pending the investigation.

Complaint #26

Description of Complaint: Patient came to Medical Records requested a copy of her records and before she left the hospital noticed another's patient medical information within her record.

Findings: She immediately returned with the other patient's medical record to OutPatient Records.

Disposition: The receiving Corpsman shredded the records without making note of the patient's name. A notification letter could not be sent.

Complaint #27

Description of Complaint: Patient complains that a pharmacy staff member violated his rights by talking to him from across the room.

Findings: The pharmacy staff did address the patient without calling him to the window for a more discrete conversation.

Disposition: The Department Head of Pharmacy spoke to the patient, apologizing for the actions of the staff member.

Complaint #28

Description of Complaint: Patient receives her ex-spouses medical record copy, rather than her own.

Findings: The Outpatient staff member failed to verify whose records he was printing.

Disposition: The ex-spouse was contacted and he had received the records from her. A corpsman delivered the correct records to her later that evening.

Complaint #29

Description of Complaint: Marines receive spreadsheet that has other names and last 4 of SSN.

Findings: The spreadsheet was to notify Marines of the immunizations needed for medical readiness

Disposition: Scheduled training and to remove SSN from spreadsheets prior to sending them out.

Complaint #30

Description of Complaint: 35 Medical records lost by accidentally placed in dumpster.

Findings: Corpsman staged 35 medical records for the next day appointment in a black trash bag at the front desk. Later on, it was mistaken for trash and taken to the dumpster. It was discovered what happened the next day.

Disposition: The 35 medical records are reported as lost and unrecoverable. The affected individuals have been notified by mail.

Agency Name: (b) (6)

Complaint #31

Description of Complaint: Complaint from staff member that the retiring Department Head removed her personnel file from the office to her residence. The personnel file contained PII as well as medical information.

Findings: The departing Department Head was cleaning what she thought were personal files from her office. The personnel file of the staff member was taken home accidentally and returned the next day.

Disposition: DONCIO report submitted. The complainant was notified. US Cert # INC000000246662

Complaint #32

Description of Complaint: On 15 Nov12, a DONCAF report of a sailor attached to the (b) (6) was lost by the ship's security manager while in route. On 16 Nov 12, the ship's security manager reported the loss of the DONCAF to Naval Hospital (b) (6)

Findings: The ship's security manager improperly handled PHI/PII by placing the material in the trunk of his personal vehicle and took his kids to the baseball park for a game. Baseball gear was also in the trunk and it is presumed during the removal of sports bags, the PHI/PII material was inadvertently pulled and dropped outside the vehicle. PHI/PII material was not recovered.

Disposition: DONCIO report submitted. The complainant was notified. US Cert # INC000000247420

Agency Name: (b) (6)

Complaint #33

Description of Complaint: A patient (who is also a staff member) reported that she learned that her laboratory test results were verbally disclosed by another staff member to individuals who did not have a need to know. .

Findings: A HIPAA-based investigation revealed that the allegation has merit. A subsequent legal investigation has been launched that included an AHLTA audit of the EMR to determine if unauthorized access took place and it appears that this may have been the case.

Disposition: Two (b) (6) staff members are scheduled for NJP as a result of the investigating officer's recommendations. To date, NJP has not been conducted, but is scheduled for the very near future.

Complaint #34

Description of Complaint: A patient's spouse filed a HIPAA complaint alleging that a senior staff member discussed the patient's medical condition with the office door opened resulting in other staff members hearing protected health information.

Findings: A HIPAA-based investigation was conducted in which all staff members on board on the day of the alleged violation were interviewed. Staff stated that either they were unaware of the event or heard either none of the conversation or nothing of a sensitive nature that would constitute PHI.

Disposition: The patient's spouse received notification that a confirmed HIPAA violation does not appear to have taken place, but was assured that greater diligence would be taken to protect PHI and that staff were reminded to close office doors when sensitive information is to be discussed.

Complaint #35

Description of Complaint: A patient list of appointments for a specific specialty clinic was given to another patient in error. The list contained PHI.

Findings: The violation did occur and appears to be a careless error.

Disposition: The list of appointments was returned by the other patient. The patient to whom the list applied was notified of the unauthorized disclosure. The staff of this specialty clinic reviewed the steps that occur when patients request a list of appointments and safeguards were put in place to prevent further unauthorized disclosures.

Complaint #36

Description of Complaint: AHLTA records for a medical encounter were inadvertently misfiled in another patient's medical record.

Findings: The staff of the clinic did misfile the record of the encounter, most likely due to lack of attention to detail.

Disposition: The patient finding the misfiled paperwork returned the copies to the clinic. The patient whose records were disclosed was notified of the situation. Clinic staff reviewed the process for filing AHLTA encounters in the medical record and established safeguards to prevent further unauthorized disclosures.

Complaint #37

Description of Complaint: An active duty service member was transferred to another command and was provided his medical and dental record. The member contacted the NHCNE clinic to report that another service member's record was "packaged" with his records.

Findings: The staff of the clinic did misfile the record, most likely due to lack of attention to detail. The misfiled record was returned to the medical department of the command where the patient is now assigned.

Disposition: Process review was conducted with the records staff.

Agency Name: (b) (6)

Complaints #38, 39, 40, 41

Description of Complaint: Received opened package back from (b) (6) (b) (6) which was missing one patient record and contained three Request for Medical/Dental Records or Information Form (DD877), being sent to (b) (6)

Findings: Missing record was located and verified no information was lost. The three DD877 forms were included in the paper envelope with the missing record being sent from (b) (6) Medical Record Department to (b) (6)

Package was opened during shipping and was returned by (b) (6) Information had the possibility of being compromised.

Disposition: Medical Record and DD 877s were secured in fiber envelope and resent to (b) (6) The three sponsors identified on the DD877s were sent Notification of potential compromise of Personal Identifiable Information involving themselves and their dependents.

Complaint #42

Description of Complaint: Complaint received from patient that a breach of her protected health information had occurred when a Naval Health Clinic staff member discussed her medical condition with others staff members, and in front of others, at a location outside of the medical treatment facility.

Findings: Investigation was performed by the command assigned investigating officer and allegations were supported by the findings.

Disposition: The patient was informed of the conclusion. Disciplinary and legal actions were taken by the command. Additional HIPAA training was mandated for all staff members involved. Staff members were reassigned to non patient care duties.

References: Public Law 110-53, Sec. 803 and OMB Circular A-130, Appendix I

DOM Component: <Select Component>
Reporting Quarters: FY2013 2nd QTR (Jan-Mar)

REPORTS ARE DUE TO DHS-36 BY COB APR 0TH

Reviews	
Types of Reviews ¹	Number of Reviews
Privacy Act Statements (PAS)	209
Computer Matching Agreements (CMAs)	DPLO will complete this field
Section (n) Contractor Review	1
Total Number of Reviews 300	

¹ A review is an activity to ensure compliance with requirements established in controlling authorities such as the Privacy Act of 1974, 5 U.S.C. 552a; OMB Circular A-130, Appendix I; and OMB Memo M-79-16. Examples of reviews may include a Privacy Impact Assessment, OMB Circular A-130 Privacy Act reviews (pre and updated system of records reviews and reviews of proposed rules for Privacy Act exemptions), or OMB Circular A-130 Computer Matching reviews.

Contractor Responsibilities	
Are contractor(s) aware of Privacy Act responsibilities and DoD 5400.11-R?	<Select One>
Have contractor employees completed DoD Component Privacy Act training?	<Select One>

Privacy Complaints and Dispositions		
Type/Nature of Complaint ²	Number of Complaints	Responsive Action Taken ³
1. Process and Procedure ³	29	Pending ⁴
2. Redress ⁵	0	10
3. Operational ⁶	0	
4. Referred to Other Agency	0	
4. Other, Please Explain	0	
Total Number of Complaints this Quarter		29

² A complaint is an assertion alleging a violation of privacy and/or civil liberties. Privacy complaints typically allege violations of (1) process and procedural issues (consent, collection, disclosure, and notice); (2) redress (non-Privacy Act inquiries seeking resolution of difficulties about privacy matters); or (3) operational issues (Privacy Act matters not including requests for access, disclosure, and/or amendment).

³ Responsive action taken means the complaint was reviewed and a responsive action was taken under the complaint was resolved.

⁴ Pending means that the complaint is being reviewed to determine the appropriate action and/or resolution.

⁵ Process and procedural issues: consent, collection, disclosure, and notice.

⁶ Redress: Non-Privacy Act inquiries seeking resolution of difficulties about privacy matters.

⁷ Operational issues: Privacy Act matters not including requests for access, disclosure, and/or amendment.

Type of Advice Provided and the Response to Advice	
Advice Provided ⁸	Response to Advice ⁹

⁸ Advice provided is the written issuance of policies, procedures, or guidance pertaining to privacy issued by: (1) the Heads of the OSD and DoD Components; or (2) Component Senior Officials for Privacy.

⁹ Response to advice is specific action taken by a DoD Component implementing the advice provided by (1) the Heads of the OSD and DoD Components; or (2) Component Senior Officials for Privacy. Examples of a response to advice may include: guidance, new procedure, or training.

References: Public Law 110-53, Sec. 803 and OMB Circular A-430, Appendix I

DOM Component: FY2013 2nd QTR (Jan-Mar)

REPORTS ARE DUE TO DNS-36 BY COB APR 8TH

PRIVACY ACT SYSTEM OF RECORDS NOTICES REVIEW REPORT	
Number Reviewed this quarter/Total reviewed to-date: 10	<Explain deviation below 12.5% per quarter>
Number reviewed/Total	<All pending are reported quarterly>

How many SORNs have been reviewed for "Pending" (NARA approved retention)?

SORNS REVIEWED THIS QUARTER								
SORN ID and NAME	Federal Register Page Number & Date	Accurately Describes System of Records	Accurately Describes NARA's Retention & Disposal	Routine Use Disclosures Still Appropriate	Is an Exemption Still Required	Section (n) Contractor Review Complete	CMS Control Number Requirement Met	Action Required from Review
NOJ461-2, POW Follow-up Program	68 FR 35657/16 Jun 03	Yes	Yes	Yes	N/A	(Select One)	(Select One)	No changes required
NOJ461-1, Medical Department Professional/Technical Personnel Development	68 FR 35657/16 Jun 03	Yes	Yes	Yes	N/A	(Select One)	(Select One)	No changes required
NOJ461-3, Health Care Record System	68 FR 35657/16 Jun 03	Yes	Yes	Yes	N/A	(Select One)	(Select One)	No changes required
NOJ461-4, Birth Defects Registry	68 FR 35657/16 Jun 03	Yes	Yes	Yes	N/A	(Select One)	(Select One)	No changes required
NOJ461-5, Health Care Accounts and Insurance Information	68 FR 35657/16 Jun 03	Yes	Yes	Yes	Yes	(Select One)	(Select One)	No changes required
NOJ461-6, Quality Assurance/Risk Management	68 FR 35657/16 Jun 03	Yes	Yes	Yes	Yes	(Select One)	(Select One)	No changes required
NOJ461-7, Blood Donor Files	68 FR 35657/16 Jun 03	Yes	Yes	Yes	Yes	(Select One)	(Select One)	No changes required
NOJ461-8, Health/Dental Research Center Data File	68 FR 67238/16 Nov 04	Yes	Yes	Yes	Yes	(Select One)	(Select One)	No changes required
NOJ461-9, Combat Trauma Registry Expeditionary Medical	76 FR 28010/13 May 11	Yes	Yes	Yes	Yes	(Select One)	(Select One)	No changes required
NOJ461-10, Millennium Cohort Study	68 FR 35657/16 Jun 03	Yes	Yes	Yes	Yes	(Select One)	(Select One)	No changes required

Total Number of SORNs Reviewed this Quarter: 10

**SECTION 803 OF 9/11 COMMISSION ACT OF 2007
DETAILS OF PRIVACY COMPLAINTS AND DISPOSITIONS
2ND QTR FY13 – JANUARY 1, 2013 – MARCH 31, 2013**

(b) (6)

Complaint #1

Description of Complaint: Staff member established a contract without a Privacy Impact Assessment, BAA, Legal approval or authority.

Findings: substantiated. The contract used unencrypted, coded PHI.

Disposition: Contract cancelled Complaint Closed

Complaint #2

Description of Complaint: Complainant alleged her PHI (Electronic Medical Record) was access by her staff without authority.

Findings: Member was provided an audit report to identify staff that she believed entered her record illegally. Member failed to respond after several attempts.

Disposition: Complaint Closed

Complaint #3

Description of Complaint: Complainant alleged that incorrect information had been placed in his sensitive patient record. Clinical Department Head approved corrections to medical record.

Findings: Substantiated.

Disposition: Expungement pending.

Complaint # 4

Description of Complaint: Complainant alleged that incorrect information had been put in her sensitive patient record.

Findings: Substantiated Clinical Department approved corrections to medical record.

Disposition: Expungement pending

Complaint #5

Description of Complaint: Complainant alleged that incorrect information had been put in her immunization patient record.

Findings: Substantiated. Clinical Department approved corrections to medical record.

Disposition: Record Amended. Closed.

Complaint #6

Description of Complaint: Medical records containing PHI were inadvertently given to another patient upon discharge. Patient records were returned

Findings: Substantiated. Nurse admits to error. Division Officer notified,

Disposition: Closed.

Complaint #7

Description of Complaint: Complainant alleged that incorrect information had been put in her electronic health record.

Findings: Substantiated. A positive lab result was placed in the patient's medical record due to mislabeled specimen by the clinic. Record has been amended.

Disposition: Closed.

Complaint #8

Description of Complaint: Complainant alleged that incorrect information was placed in a patient's record..

Findings: Substantiated. The Department cut and pasted personal identifiable information into the medical record of another patient.

Disposition: Closed. Record has been amended.

Complaint #9

Description of Complaint: Complainant alleged that incorrect information had been placed in her electronic health record.

Findings: On-going

Disposition: Pending.

Agency Name: (b) (6)

Complaint #10

Description of Complaint: Complaint from a patient that a staff member disclosed to a roommate that she was at the clinic for care.

Findings: It could not be determined rather the staff member disclosed the information or not. The individual who the information was allegedly disclosed to would not provide a statement.

Disposition: DONCIO report submitted. The complainant was notified. US Cert # INC000000256900

Complaint #11

Description of Complaint: The wrong medical record was provided to a patient to take to an appointment

Findings: The front desk clerk did not verify the patient's information when pulling the record.

Disposition: DONCIO report submitted. The complainant was notified. US Cert # INC000000259702

Complaint #12

Description of Complaint: Staff member faxed patient information to a residence.

Findings: The staff member did not follow policy/guidelines when she attempted to fax medical records to patients to an outside provider's office.

Disposition: DONCIO report submitted. US Cert # INC000000267982

Agency Name: (b) (6)

Complaint #13

Description of Complaint: A DOD active duty member was mailed a radiology CD of another (veteran) patient

Findings: A ward secretary mismailed the CD. .

Disposition: The mismailing was discussed with both the employee and supervisor. Procedures are currently being reviewed with the supervisor. Ward secretaries are not to mail out CD's.

Complaint #14

Description of Complaint: Unencrypted e-mail containing sensitive information sent by DOD member.

Findings: No breach occurred.

Disposition: Member educated and ticket closed.

Complaint #15

Description of Complaint: DOD contractor received an unencrypted email from a DOD provider with a screenshot displaying PII of one active duty patient.

Findings: Ticket still open.

Disposition: Provider was educated.

Complaint #16

Description of Complaint: DOD active duty member accessed information about another active duty member without a need to know.

Findings: Still under investigation.

Disposition: Still under investigation.

Complaint #17

Description of Complaint: DOD provider discussed medical information about a DOD member to a DOD co-worker without authorization.

Findings: The complainant brought the co-worker with him to his appointment. The provider thought the co-worker was the complainant's boss, and the co-worker helped him fill out a chit form to work from home. Diagnosis was divulged, but co-worker already knew that.

Disposition: Complainant was sent an apology letter.

Agency Name: (b) (6)

Complaint #18

Description of Complaint: Unencrypted email containing Personal Identifiable Information (PII) was sent to two personal email accounts by a staff member.

Findings: Naval staff member was sending PII data, name, and last four to personal email account. HIPAA Privacy Officer was notified who in turned notified the CIO of incident.

Disposition: CIO instructed to send notification letter to patient. Staff member received HIPAA training and instructions referencing proper use of encrypted emails.

Complaint #19

Description of Complaint: A patient was given the appointment information of another patient.

Findings: Multiple staff using the same printer. Patient called HIPAA Privacy Officer when the information was not hers. HIPAA Privacy Officer filed incident report. CIO directed no action necessary.

Disposition: Staff members received training to confirm patient information before handing PHI or PII to a patient. Use Identifying methods such as name and date of birth.

Agency Name: (b) (6)

Complaint #20

Description of Complaint: Compliant a contract worker for the Naval Hospital, inappropriately accessed patient records.

Findings: An AHLTA audit was requested and it was found that the accused had accessed Co-workers PHI and an investigation revealed that she spoke to other co-workers about the PHI; incident happened in Oct 2012 and wasn't reported to Privacy Office. Contract employee received a final warning counseling in Oct 2012; however, she continued to access his account.

Disposition: Even though she had received permission to access his account (three times since Oct), the member was not notified of the original breach of PHI when she did not have permission to access his account. The findings were that in light of the final warning counseling, her continued access of her co-worker's AHLTA record was inappropriate. Had her co-worker had been notified of the PHI breach in Oct 2012, most likely would not have asked her to access the account. It was decided that her access to CHCS/AHLTA be revoked. Ultimately, she was unable to perform her job and employment was terminated.

Complaint #21

Description of Complaint: Patient alleged a Privacy breach when she reads information in a provider's notes, who she was referred to. She claims that she filed a complaint with the provider's office.

Findings: No Privacy breach. HIPAA Privacy Rules allow transfer of PHI between MTF for treatment purposes.

Disposition: Patient notified of the Privacy Rule and informed that this Privacy office does not handle complaints against other facilities.

Complaint #22

Description of Complaint: Patient complains that Family Practice Nurse violated her privacy rights by talking loudly and asking her questions from another room.

Findings: The nurse did speak to the patient from another room and door to hallway was ajar.

Disposition: The Department Head of Pharmacy spoke to the patient, apologizing for the actions of the staff member. Family Practice was given HIPAA and Privacy training regarding minimizing incidental disclosures.

Complaint #23

Description of Complaint: Provider verbally disclosed spouse PHI to patient. Spouse complained about breach.

Findings: The provider realized right away that he accidentally spoke PHI about the patient's spouse. The Patient informed his spouse of the breach.

Disposition: The provider was instructed how to file a privacy complaint, if the spouse wished to make a complaint. The provider did apologize to the spouse for his disclosure. No complaint has been received by the Privacy Office to date from spouse.

Complaint #24

Description of Complaint: Receiving multiple faxes of PHI in credentialing office.

Findings: PHI being sent to wrong fax number from other facilities.

Disposition: Failed to locate a "source", Privacy office is to receive the faxed documentation and contact the faxing facilities directly. PHI has been minimized, continuing to resolve the problem.

Complaint #25

Description of Complaint: PHI documents for shred found at landfill dump site.

Findings: Corpsman placed PHI in bin thinking it was a shred bin. Supervisor at the landfill spotted the "trash" and contacted the Privacy Office. The PHI was picked up and disposed of properly.

Disposition: Additional Shred bins were ordered for the clinic and staff trained on the importance of paying attention to where the shred bins are and not placing PHI in trash bins.

Agency Name: (b) (6)

Complaint #26

Description of Complaint: Complainant from patient (a staff member) that provider stated – outloud – that the patient was taking controlled substances. Allegedly, other staff members were within range of the provider to hear the comment.

Findings: Interviews conducted with staff to include the provider. Staff do not recall hearing the statement. Provider denies the allegation.

Disposition: The Privacy Officer will pass the results of the interviews to the patient. As of the date of this report, the information was not passed to the patient.

Agency Name: (b) (6)

Complaint #27

Description of Complaint: Complaint from (b) (6) that received unencrypted tracker containing PII and PHI from Health Benefit Advisor of a BHC.

Findings: Health Benefit Advisor e-mail was not properly set up to encrypt messages

Disposition: Worked with Supervisor to correctly set up e-mail account. Counseling and education was provided to the individual who's been assigned a remedial training.

Complaint #28

Description of Complaint: One of our Command's member sent an unencrypted e-mail containing her own PII to her personal commercial e-mail address

Findings: Member didn't realize she could not use her commercial e-mail for messages containing PII

Disposition: Education provided

Complaint #29

Description of Complaint: Support Services Staff sent general traffic message via NICE system. Message contained last four digit of SSN, name and rank of individual..

Findings: Message downloaded from secure site and distributed incorrectly to people who didn't have a need to know.

Disposition: Working with site to limit access to general message traffic.

References: Public Law 110-53, Sec. 803, Privacy Act, and OMB Circular A-130, Appendix I

DON Component:
Reporting Quarters:

FY2013

3rd QTR (Apr. - Jun.)

REPORTS ARE DUE TO DHS-36 BY COB JULY 9th

Reviews	
Types of Reviews ²	Number of Reviews
Privacy Act Statements (PAS) ²	80
Computer Matching Agreements (CMAs)	DoD/CIO will complete this field
Section (m) Contract Review	0
Total Number of Reviews: 80	

¹ A review is an activity to ensure compliance with requirements established in controlling authorities such as the Privacy Act of 1974, 5 U.S.C. 552a and OMB Circular A-130, Appendix I.² Privacy Act Statement reviews cover forms and surveys reviewed by the Component Privacy Office.

Contractor Responsibilities	
Are contractor(s) aware of Privacy Act responsibilities and DoD 5400.11-R?	Yes
Have contractor employees completed DoD Component Privacy Act training?	Yes

Privacy Complaints and Dispositions		
Type/Nature of Complaint ²	Number of Complaints	Responsive Action Taken ³
1. Process and Procedure ²	49	33
2. Redress ⁴	0	16
3. Operational ⁵	0	
4. Referred to Other Agency	0	
4. Other, Please Explain	0	
Total Number of Complaints this Quarter		49

² A complaint is an assertion alleging a violation of privacy under civil liberties. Privacy complaints typically allege violations of (1) process and procedural issues (consent, collection, disclosure, and notice); (2) redress (non-Privacy Act inquiries seeking resolution of difficulties about privacy matters); or (3) operational issues (Privacy Act matters not including requests for access, disclosure, and/or amendment).³ Responsive action taken means the complaint was resolved and a responsive action was taken and/or the complaint was resolved.⁴ Pending means that the complaint is being reviewed to determine the responsive action and/or resolution.⁵ Process and procedure issues: consent, collection, disclosure, and notice.⁶ Redress: Non-Privacy Act inquiries seeking resolution of difficulties about privacy matters.⁷ Operational issues: Privacy Act matters not including requests for access, disclosure, and/or amendment.

Type of Advice Provided and the Response to Advice	
Advice Provided ⁸	Response to Advice ⁹

⁸ Advice provided is the written issuance of policies, procedures, or guidance pertaining to privacy issued by: (1) the Heads of the OSD and DoD Components; or (2) Component Senior Officials for Privacy.⁹ Response to advice is specific action taken by a DoD Component implementing the advice provided by (1) the Heads of the OSD and DoD Components; or (2) Component Senior Officials for Privacy. Examples of a response to advice may include: guidance, new procedure, or training.

References: Public Law 110-53, Sec. 803, Privacy Act, and DMB Circular A-130, Appendix I

DON Component:
Reporting Quarters: FY2013 <Select Component>
3rd QTR (Apr. - Jun.)

REPORTS ARE DUE TO DNS-SN BY COB JULY 9TH!

PRIVACY ACT SYSTEM OF RECORDS NOTICES REVIEW REPORT		
How many SONNs reviewed/updated within the past 2 years mandated by Circular A-130? 10	Number Reviewed this quarter/Total reviewed to-date: 10	<Explain deviation below 12.5% per quarter>
How many SONNs have been reviewed for "Pending" NARA approved retention? 1	Number reviewed/Total Number 10	<All pending are reported quarterly>

SONNs REVIEWED THIS QUARTER								
SONN ID and NAME	Federal Register Page Number & Date	Accurately Describes System of Records	Accurately Describes NARA's Retention & Disposal	Routine Use Disclosures Still Appropriate	Is an Exemptions SRI Required	System Maintained by Contractor	OMB Control Number Requested/Not	Action Required from Reviewer
NO2461-2, POW Follow-up Program	68 FR 35657/16 Jun 03	Yes	Yes	Yes	N/A	Not maintained by contractor	<Select One>	Alteration
NO4150-1, Medical Department Professional/Technical Personnel Development	68 FR 35657/16 Jun 03	Yes	Yes	Yes	N/A	Not maintained by contractor	<Select One>	Alteration
NO4150-2, Health Care Record System	68 FR 35657/16 Jun 03	Yes	Yes	Yes	N/A	Not maintained by contractor	<Select One>	Alteration
NO6320-1, Health Care Accounts and Insurance Information	68 FR 35657/16 Jun 03	Yes	Yes	Yes	N/A	Not maintained by contractor	<Select One>	Alteration
NO6320-3, Quality Assurance/Risk Management	68 FR 35657/16 Jun 03	Yes	Yes	Yes	Yes	Not maintained by contractor	<Select One>	Alteration
NO6320-4, Blood Donor Files	68 FR 35657/16 Jun 03	Yes	Yes	Yes	Yes	Not maintained by contractor	<Select One>	Alteration
NO6350-3, Health/Dental Research Center Data File	69 FR 67128/16 Nov 04	Yes	Yes	Yes	Yes	Not maintained by contractor	<Select One>	Alteration
NO6350-7, Combat Trauma Registry/Expeditionary Medical	76 FR 26010/13 May 11	Yes	Yes	Yes	Yes	Not maintained by contractor	<Select One>	Alteration
NO6350-5, Allentown Cohort Study	68 FR 35657/16 Jun 03	Yes	Yes	Yes	Yes	Not maintained by contractor	<Select One>	Alteration

Total Number of SONNs Reviewed this Quarter: 10

**SECTION 803 OF 9/11 COMMISSION ACT OF 2007
DETAILS OF PRIVACY COMPLAINTS AND DISPOSITIONS
3RD QTR FY13 (25 JUNE 2013)**

Agency Name: ^{(b) (6)}

Complaint #1

Description of Complaint: A breach occurred when an employee sent an unencrypted report containing PII to an unintended recipient outside of the network.

Findings: Information Management software logged an event where patient information was sent to an individual outside of the network. The email included PHI, name and SSN. The individual was intended for a provider in the hospital but instead was sent to an civilian account of a person with the same first name.

Disposition: The staff members' account was disabled while she completed PII, Cyber Awareness and HIPAA training. The concerned staff member was reminded of the importance of verifying the e-mail addresses of intended recipients and encrypting patient information. Notification was completed to the individual whose information was in the email.

Complaint #2

Description of Complaint: An active duty staff member complained that her medical information had been accessed by her department head.

Findings: An AHLTA audit was completed and it showed that her information was accessed on two occasions.

Disposition: The department head was education on authorized disclosures and uses of health information. More specifically, he was educated on requesting information on military members when required to do so in the performance of his assigned duties.

Agency Name: ^{(b) (6)}

Complaint #3

Description of Complaint: Medical records for a dependent child were not packaged individually and sent to a parent.

Findings: Medical documentation for a dependent child was not properly released to the parent.

Disposition: CIO instructed to send notification letter to patient. Staff member received HIPAA training and instructions referencing proper mailing of dependent children's medical records.

Complaint #4

Description of Complaint: A patient's medical records were included in another patient's medical record. The medical records were returned to the clinic.

Findings: Multiple staff using the same printer. Second verification check was not properly performed.

Disposition: Staff members received training to confirm patient information before releasing medical records.

Complaint #5

Description of Complaint: A patient's medical records were sent to the wrong medical facility. The medical facility contacted the patient to inform him of the violation.

Findings: Staff mislabeled envelope. Second verification check was not properly performed.

Disposition: Staff members received training to confirm patient information and mailing labels before releasing medical records.

Complaint #6

Description of Complaint: Non custodial parent received immunization information.

Findings: Legally the parent has the rights to the patients information if no legal restrictions are in place.

Disposition: Informed custodial parent of non custodial parents right. Advised to seek legal counsel and place restrictions in child's medical record.

Agency Name: (b) (6)

Complaint #7

Description of Complaint: A DOD Employee stored a document in the SharePoint (mysite) containing PHI/PII of an active duty service member.

Findings: Founded

Disposition: DoD employee has removed the documents from the SharePoint My site.

Complaint #8

Description of Complaint: A DOD active duty member took a picture of an unknown patient on his cell phone, without authorization, went home and uploaded the picture onto his personal facebook

Findings: Founded

Disposition: The picture was deleted from the cell phone and facebook. The DOD member will be having a review board with our local Senior Enlisted. If no further actions on the part of the member are determined to be found by the board, then the member will receive formal written counseling/instruction on his actions, how they are unacceptable, and what acceptable behavior is regarding patients and PHI.

Complaint #9

Description of Complaint: DOD employee advised another DOD employee what his PIN number was.

Findings: IT specialist witnessed exchange of confidential information.

Disposition: The user's VA network access was disabled.

Complaint #10

Description of Complaint: A veteran's wristband containing PII/PHI was placed on a DOD patient's wrist.

Findings: Nurse placing wrong wristband identified. Two identifiers not used, per policy.

Disposition: Credit monitoring offered the veteran. Patient incident report completed.

Agency Name: (b) (6)

Complaint #11

Description of Complaint: May 3rd at (b) (6) reported an All Hands Email that went out to all of (b) (6) and their underlying Clinics to a total of 1861 staff members. The wrong address was selected before sending out.

Findings: The email was sent out not encrypted. It was recalled when discovered. MID did remove it from the server. The email had an attachment which included a security clearance information and financial information with divorce decree.

Disposition: The Medical record has not showed up. Letter was mailed out. Staff member took online PHI classes and did further education on electronic safe guards.

Complaint #12

Description of Complaint: May 9th at (b) (6) a patient requested their record. When picking up their record and reviewing it later, miss filing of other medical chits were discovered.

Findings: The documentation of the patient's previous spouse and three other independent individual's medical documentation were discovered in the one record.

Disposition: Education was also done to staff and a re-check process was implemented for copying records. Letter went sent out.

Complaint #13

Description of Complaint: May 29th at (b) (6) in Inpatient Admin a record was discovered that had other individual's chits in it..

Findings: The patient record had one other individual's chits in it. The patients both had the same first letter of the last name. The chits were removed and filed in the proper record.

Disposition: Education was done on proper filing to staff. No letter was required to go out.

Complaint #14

Description of Complaint: June 21 at Naval Hospital ^{(b) (6)} MID discovered a unaccounted laptop.

Findings: While doing inventory of equipment a Fujitsu laptop was discovered unaccounted for. It was encrypted and did not show to have ever been plugged into the network.

Disposition: Education was done on with staff on doing regular inventory checks. Letters are not required to go out.

Agency Name: ^{(b) (6)}

Complaint #15

Description of Complaint: (SJA Office (Legal) Complaint) Complainant alleges that a member of the NMCP staff electronically accessed her medical records without appropriate authorization or "need-to-know."

Findings: Unsubstantiated/Other, see 'Disposition'

Disposition: Determined by another Agency/Office (Closed).

Complaint #16

Description of Complaint: (SJA Office (Legal) Complaint) Complainant alleges that a member of the NMCP staff electronically accessed her medical records without appropriate authorization or "need-to-know."

Findings: Unsubstantiated/Other, see 'Disposition'

Disposition: Determined by another Agency/Office (Closed).

Complaint #17

Description of Complaint: (SJA Office (Legal) Complaint) Complainant alleges that a member of the NMCP staff placed incorrect information in her electronic medical record.

Findings: Unsubstantiated/Other, see 'Disposition'

Disposition: Closed, Complainant did not submit requested information.

Complaint #18

Description of Complaint: Complainant alleges that her husband who works at ^{(b) (6)} has been accessing her electronic medical record.

Findings: Under Investigation

Disposition: Pending.

Complaint #19

Description of Complaint: Complainant alleges that a member of the ^{(b) (6)} staff has been accessing her medical information and disclosing it to individuals in the court system without her authorization or a need-to-know.

Findings: Unsubstantiated

Disposition: Closed.

Complaint #20

Description of Complaint: Complainant alleges that members in her chain of command accessed her medical information without a need-to-know or appropriate authorization.

Findings: Under investigation.

Disposition: Pending

Complaint #21

Description of Complaint: Complainant alleges that a member of the ^{(b) (6)} staff electronically accessed his medical records without appropriate authorization or "need-to-know."

Findings: Under investigation.

Disposition: Pending

Complaint #22

Description of Complaint: Complainant alleges that a member of the ^{(b) (6)} staff electronically accessed his medical records without appropriate authorization or "need-to-know."

Findings: Under investigation.

Disposition: Pending

Complaint # 23

Description of Complaint: Complainant alleges that a member of the ^{(b) (6)} staff electronically accessed his medical records without appropriate authorization or "need-to-know."

Findings: Under investigation.

Disposition: Pending

Complaint # 24

Description of Complaint: (SJA Office (Legal) Complaint) Complainant alleges that a member of the ^{(b) (6)} staff electronically accessed her medical records without appropriate authorization or "need-to-know."

Findings: Under investigation.

Disposition: Pending

Complaint # 25

Description of Complaint: (SJA Office (Legal) Complaint) Complainant alleges that a member of the NMCP staff electronically accessed her medical records without appropriate authorization or "need-to-know."

Findings: Under investigation.

Disposition: Pending

Complaint # 26

Description of Complaint: (b) (6) staff member identified incorrect information in four patients' records. Complainant alleged that incorrect information had been put in her sensitive patient record.

Findings: Unsubstantiated; Request to amend patient records forwarded to System Administrator

Disposition: Amendments pending.

Complaint # 27

Description of Complaint: HIPAA Officer at another Covered Entity alleges that member at NMCP put incorrect information in one of their active duty members medical record.

Findings: Unsubstantiated; Request to amend patient records forwarded to site System Administrator

Disposition: Amendments pending.

Complaint #28

Description of Complaint: HIPAA Officer at another Covered Entity alleges that member at (b) (6) put incorrect information in one of their active duty members dependent's medical record.

Findings: Unsubstantiated; Request to amend patient records forwarded to site System Administrator

Disposition: Amendments pending.

Complaint #29

Description of Complaint: (b) (6) staff member identified incorrect information in patient's record. Complainant alleged that incorrect information had been put in her sensitive patient record.

Findings: Unsubstantiated; Request to amend patient records forwarded to System Administrator

Disposition: Amendments pending.

Complaint #30

Description of Complaint: Patient at (b) (6) alleges that incorrect information has been put into her medical record.

Findings: Unsubstantiated; Request to amend patient records waiting for verification of alleged error.

Disposition: Amendments pending.

Complaint #31

Description of Complaint: (b) (6) impermissibly disclosed a patient's Protected Health Information to his Chain of Command.

Findings: Unsubstantiated;

Disposition: Closed.

Complaint #32

Description of Complaint: Patient's Chain of Command required her to disclosed her Protected Health information

Findings: Substantiated;

Disposition: Chain of Command inform of privacy policies. Case Closed.

Complaint #33

Description of Complaint: Patient's Protected Health information was delivered to wrong patient as part of a request for a copy of a medical record.

Findings: Substantiated;

Disposition: Case Closed.

Complaint #343

Description of Complaint: Patient's Protected Health Information was scanned into another patient's medical record.

Findings: Substantiated;

Disposition: Case Closed.

Complaint #35

Description of Complaint: Patient's request for Protected Health information was not complete. The patient requested his inpatient and outpatient medical records and only received his outpatient records.

Findings: Under Investigation

Disposition: Pending.

Complaint #36

Description of Complaint: Complainant received Protected Health Information of another patient as part of a request for a copy of her medical records.

Findings: Under Investigation

Disposition: Pending.

Complaint #37

Description of Complaint: Complainant's pharmacy medications were given to another patient.

Findings: Under Investigation

Disposition: Pending.

Agency Name: (b) (6)

Complaint #38

Description of Complaint: Staff took home medical records to complete

Findings: Staff member admitted to taking home medical records to complete.

Disposition: Staff member counseled and understands that he cannot take medical records home without proper authorization. Low risk, individuals not notified.

Complaint #39

Description of Complaint: Patient complains that daughter's biological father receives medical information over the phone on daughter. Daughter is listed under another sponsor.

Findings: No Privacy breach. Child has father's last name and listed under both her biological father and sponsor in DEERS.

Disposition: Biological father has right to minor child's medical information.

Complaint #40

Description of Complaint: Patient in Radiology receives wrong CD with incorrect patient information on the label.

Findings: Patient was very rude to staff and in a hurry and may have answered when the name of the other patient was called. He grabbed the CD and hurried away without an opportunity to verify.

Disposition: CD was returned. Was password protected. Low risk, individuals not notified.

Complaint #41

Description of Complaint: Provider verbally disclosed spouse PHI to patient. Spouse complained about breach.

Findings: The provider realized right away that he accidentally spoke PHI about the patient's spouse. The Patient informed his spouse of the breach.

Disposition: The provider was instructed how to file a privacy complaint, if the spouse wished to make a complaint. The provider did apologize to the spouse for his disclosure. No complaint has been received by the Privacy Office to date from spouse.

Complaint #42

Description of Complaint: Staff member complains that another staff member called her ex-boyfriend (whom she has a child with) regarding the status of her surgery.

Findings: Inconclusive

Disposition: Ex-boyfriend does not corroborate the story. He works in surgery and he was only contacted by the other staff to let him know that of being called into surgery on a weekend. He maintains that the information he received about the surgery was from the member herself.

Agency Name: (a) (6)

Complaint # 43:

Description of Complaint: PII disclosed to incorrect patient.

Findings: Two patients were assisted at the front desk area in the Military Medicine Clinic. An appointment was booked for one patient and his Military ID Card was placed on the desk. The first patient left without picking up his ID Card. The second patient came into the clinic for an appointment. After checking into the clinic, he picked up both IDs without realizing it. The second patient then presented the other patient's ID card for his prescriptions not aware that he had the incorrect ID card.

Disposition: ID card returned to correct person. In-service was held for the Front Desk Staff on returning the patient's ID card directly to the patient and not setting it down on the desk for the patient to pick up.

Agency Name: (b) (6)

Complaint # 44:

Description of Complaint: Patient contacted (b) (6) with a complaint of receiving another patient's dental data, along with SSN. Patient stated he received an email containing dental form, NAVMED 6600/13, which belonged to another patient.

Findings: NAVMED 6600/13 was sent to incorrect patient/unintended party and email was not encrypted. Email was sent from mil.com to mil.com and per DoN Privacy Office, notification to the intended party was not required.

Disposition: Directorate-wide training was provided for dental clinic which included HIPAA, PII, and PHI. Procedures for transferring member records were reviewed for front desk staff and all members of the clinic. Training petty officer reviewed all training records for all members to ensure HIPAA and PII training were current. Members of the dental directorate reviewed proper procedures of transferring medical records and implications of HIPAA violations for the hospital, patients, and staff.

Agency Name: (b) (6)

Complaint # 45:

Description of Complaint: Label on prescription medication—two individuals involved. First individual had prescription medication filled with label on the meds (which had her name and the medication name on it). First patient did not pick up her refill. Medication then had brand new label covering the original label with name on new patient. 2nd patient removed the new label and saw the name of the first individual on the old label.

Findings: Stopped the use of using new labels to cover old labels to save amount of containers being used.

Disposition: Per feedback received from DONCIO this was not a significant issue; however, new SOP was put in place for pharmacy and all the techs retrained on not using the new labels to cover old labels on medication containers.

Agency Name: (b) (6)

Complaint #46

Description of Complaint: Complaint from (b) (6)

Department receiving unencrypted e-mail containing PII

Findings: An International SoS patient tracker, was sent unencrypted by an ISoS staff member to a Branch Clinic Staff Member. The Staff Member sent, unencrypted, the same tracker, with PII data, dates of birth, name and last four, to (b) (6)

Operations Department for routine TRICARE business. The Staff Member was not correctly set up to encrypt e-mails.

Disposition: Worked with Staff Member to correctly set up e-mail account.

Counseling and education was provided to the individual who's been assigned a remedial training.

Complaint #47

Description of Complaint: Photographs were scanned into the wrong patient's AHLTA medical encounter. The encounter is in Updated status and is sensitive.

Findings: Provider realized error and immediately contacted the Command HIPAA Privacy Officer to route authorization for expungement to the Commanding Officer.

Disposition: Provider deleted the note instead of editing it. Staff was advised to use extra caution when working with patient medical records and to review the documentation at the end of the appointment.

Complaint #48

Description of Complaint: Medical report from a local (b) (6) provider was scanned and unintentionally placed in the wrong patient's AHLTA record.

Findings: Staff Member realized error and immediately contacted the Command HIPAA Privacy Officer to route authorization for expungement to the Commanding Officer.

Disposition: Expungement authorized by Commanding Officer and Staff was advised to use extra caution when working with patient medical records and to review the documentation at the end of the appointment.

Complaint #49

Description of Complaint: E-mail containing PII and PHI was erroneously sent unencrypted.

Findings: Staff Member immediately realized mistake and notified the Command HIPAA Privacy Officer.

Disposition: No notification of individual was needed as recipients had a need to know and everything happened within DoD firewall. Staff was advised to use extra caution when managing e-mail with PII and PHI.

References: Public Law 110-55, Sec. 803, Privacy Act, and OMB Circular A-130, Appendix I

DON Component:
Reporting Quarters:

FY2013

4th QTR (Jul. - Sep.)

REPORTS ARE DUE TO DNS-36 BY COB JULY 9th

Reviews	
Types of Reviews ¹	Number of Reviews
Privacy Act Statements (PAS) ²	368
Computer Matching Agreements (CMAs)	368
Section (m) Contract Review	0
Total Number of Reviews 368	

¹ A review is an activity to ensure compliance with requirements established in controlling authorities such as the Privacy Act of 1974, 5 U.S.C. 552a and OMB Circular A-130, Appendix I.

² Privacy Act Statement reviews cover forms and surveys reviewed by the Component Privacy Office.

Contractor Responsibilities	
Are contractor(s) aware of Privacy Act responsibilities and DoD 5400.11-R?	Yes
Have contractor employees completed DoD Component Privacy Act training?	Yes

Privacy Complaints and Dispositions			
Type/Nature of Complaint ²	Number of Complaints	Responsive Action Taken ³	Pending ⁴
1. Process and Procedure ³	38	34	4
2. Redress ⁴	0		
3. Operational ⁵	0		
4. Referred to Other Agency	0		
5. Other, Please Explain	0		
Total Number of Complaints this Quarter		38	

¹ A complaint is an assertion alleging a violation of privacy and/or civil liberties. Privacy complaints typically allege violations of: (1) process and procedure issues (access, collection, disclosure, and notice); (2) redress (non-Privacy Act inquiries seeking resolution of difficulties about privacy matters); or (3) operational issues (Privacy Act matters not including requests for access, disclosure, and/or amendment).

² Responsive action taken means the complaint was reviewed and a responsive action was taken under the complaint was resolved.

³ Pending means that the complaint is being reviewed to determine the responsive action was taken under the complaint was resolved.

⁴ Process and procedural issues: consent, collection, disclosure, and notice.

⁵ Redress: Non-Privacy Act inquiries seeking resolution of difficulties about privacy matters.

⁶ Operational issues: Privacy Act matters not including requests for access, disclosure, and/or amendment.

Type of Advice Provided and the Response to Advice	
Advice Provided ¹	Response to Advice ²

¹ Advice provided is the written issuance of policies, procedures, or guidance pertaining to privacy issued by: (1) the Heads of the OSD and DoD Components; or (2) Component Senior Officials for Privacy.

² Response to advice is specific action taken by a DoD Component implementing the advice provided by (1) the Heads of the OSD and DoD Components; or (2) Component Senior Officials for Privacy. Examples of a response to advice may include: guidance, new procedure, or training.

References: Public Law 110-53, Sec. 803, Privacy Act, and OMB Circular A-130, Appendix f

Don Component: <Select Component>
Reporting Quarters: FY2013 3rd QTR (Apr. - Jun.)

REPORTS ARE DUE TO DHS-36 BY COB JULY 9TH

PRIVACY ACT SYSTEM OF RECORDS NOTICES REVIEW REPORT	
Number Reviewed this quarter/Total reviewed to-date: 10	<Explain deviation below 12.5% per quarter>
Number reviewed/Total: 10	<All pending are reported quarterly>

How many SORNs have been reviewed for "Pending" NARA approved referenced 1

SORNs REVIEWED THIS QUARTER								
SORN ID and NAME	Federal Register Page Number & Date	Accurately Describes System of Records	Accurately Describes NARA's Retention & Disposal	Routine Use Disclosures Still Appropriate	Is an Exemption Still Required	System Maintained by Contractor	OMB Control Number Requirement Met	Action Required from Review
N03465-2, POW Follow-up Program	68 FR 35657/16 Jun 03	Yes	Yes	Yes	N/A	Not maintained by contractor	<Select One>	Alteration
N06150-1, Medical Department Professional/Technical Personnel Development	68 FR 35657/16 Jun 03	Yes	Yes	Yes	N/A	Not maintained by contractor	<Select One>	Alteration
N06150-2, Health Care Record System	68 FR 35657/16 Jun 03	Yes	Yes	Yes	N/A	Not maintained by contractor	<Select One>	Alteration
N06150-3, Health Defects Registry	68 FR 35657/16 Jun 03	Yes	Yes	Yes	N/A	Not maintained by contractor	<Select One>	Alteration
N06220-1, Health Care Accounts and Insurance Information	68 FR 35657/16 Jun 03	Yes	Yes	Yes	N/A	Not maintained by contractor	<Select One>	Alteration
N06320-3, Quality Assurance/Risk Management	68 FR 35657/16 Jun 03	Yes	Yes	Yes	Yes	Not maintained by contractor	<Select One>	Alteration
N06320-4, Blood Donor Files	68 FR 35657/16 Jun 03	Yes	Yes	Yes	Yes	Not maintained by contractor	<Select One>	Alteration
N06350-3, Health/Donor Research Center Data File	68 FR 35657/16 Jun 03	Yes	Yes	Yes	Yes	Not maintained by contractor	<Select One>	Alteration
N06350-7, Combat Trauma Registry Expeditionary Medical	76 FR 28010/13 May 11	Yes	Yes	Yes	Yes	Not maintained by contractor	<Select One>	Alteration
N06350-9, Allentown Cohort Study	68 FR 35657/16 Jun 03	Yes	Yes	Yes	Yes	Not maintained by contractor	<Select One>	Alteration

Total Number of SORNs Reviewed this Quarter: 10

**NME COMBINED SECTION 803 OF 9/11 COMMISSION ACT OF 2007
DETAILS OF PRIVACY COMPLAINTS AND DISPOSITIONS
4TH QTR FY13 – JULY 1, 2013 – SEPTEMBER 30, 2013**

BUMED COMPLAINTS

Agency Name: (b) (6)

Complaint #1

Description of Complaint: One Navy Corpsman exposed PII without encryption

Findings: Founded

Disposition: Corpsman educated and ticket closed.

Agency Name: (b) (6)

Complaint #2

Description of Complaint: A staff member working in the call center at (b) (6) filed complaint stating that her coworker counseled a patient in the work area and she overheard it.

Findings: It was confirmed that the co-worker did hear the conversation but reasonably safeguards were used in this case.

Disposition: Resolved. The complainant was notified. No breach was reported but staff was advised that more safeguards shall be used to avoid overhearing of conversation as much as possible.

Complaint #3

Description of Complaint: Mental health provider complained that a medical records staff member access and printed mental health notes.

Findings: It was confirmed that staff members were printing these notes and did so within their line of work of verifying patient charts and reconciling all notes from ALTHA into the official record (STR).

Disposition: Resolved. The complainant was notified. No breach was reported because staff was working within their scope. The provider was advised that if they did not want notes put in the official record they should not be placed in ALTHA.

(b) (6)

Complaint #4

Description of Complaint: A staff member scanned wrong information into a patient's electronic health record.

Findings: Substantiated

Disposition: In the process of being expunged.

Complaint #5

Description of Complaint: A patient took photos of another patient's PHI left unattended in an exam room and reported the incident.

Findings: Substantiated

Disposition: Procedural update. Case Closed

Complaint #6

Description of Complaint: Patient provided medical documentation from another hospital and was lost by the Emergency Room.

Findings: Unsubstantiated

Disposition: Documentation was located in Emergency Room patient record and returned to patient. Case closed

Complaint #7

Description of Complaint: Member alleges another staff member entered electronic health record without the need to know.

Findings: Unsubstantiated

Disposition: Case Closed

Complaint #8

Description of Complaint: Member alleges another staff member entered electronic health record without the need to know.

Findings: After contacting patient several times, patient failed to file a formal complaint. Unsubstantiated

Disposition: Case closed

Complaint #9

Description of Complaint: Patient alleges a staff member violated his privacy rights by denying him access to his medical records

Findings: Substantiated

Disposition: Procedural Change. Member provided copies of medical record. Case closed

Complaint #10

Description of Complaint: Staff member alleges another staff member entered his wife's Electronic Health record without the need to know.

Findings: Ongoing

Disposition: TBD

Complaint #11

Description of Complaint: Complainant alleges that members in his chain of command accessed her medical information without a need-to-know or appropriate authorization.

Findings: Unsubstantiated.

Disposition: Closed

Complaint #12

Description of Complaint: Complainant alleges that members in her chain of command accessed her medical information without a need-to-know or appropriate authorization.

Findings: Unsubstantiated.

Disposition: Closed

Complaint #13

Description of Complaint: Complainant alleges that member in her chain of command accessed patients medical information without a need-to-know or appropriate authorization.

Findings: Substantiated.

Disposition: Closed

Complaint #14

Description of Complaint: (SJA Office (Legal) Health & Human Services) Complainant alleges that ^{(b) (6)} staff disclosed her medical information to persons that did not have a need-to-know or without appropriate authorization.

Findings: Under Investigation.

Disposition: Pending

Agency Name: ^{(b) (6)}

Complaint #15

Description of Complaint: A patient was given images of another patient's surgery. They were printed on the same sheet as the patient's surgical images.

Findings: Ambulatory Surgery Unit equipment printed images of another patient's surgical images on the same sheet as a patient who received surgery that same day. The staff did not follow standard operating procedure to clear the images from the previous surgery prior to taking more images for the next patient's surgery. HIPAA Privacy Officer was notified who in turned notified the CIO of incident.

Disposition: CIO instructed no notification was required since the images did not contain anything harmful to the patient. Staff member received training and instructions for second check prior to giving information to the patient.

Agency Name: ^{(b) (6)}

Complaint #16

Description of Complaint: On September 24th NHP was notified of a patient's medical record that was sent through certified mail and incorrectly delivered by the US Postal Service.

Findings: Medical record was lost in the mail.

Disposition: Currently working with the US Postal Service to find out the current status of the package to verify if it has been recovered.

Complaint #17

Description of Complaint: On September 18th ^{(b) (6)} pulled an audit regarding an active duty member went into the electronic medical records of two active duty personnel whom he was not providing any patient care to and looked at their labs, previous encounters, and information related to any problems with their medical care.

Findings: The active duty member was not authorized to look at these member's health information. The two member's information he looked at had the same name with different spellings.

Disposition: Active duty member's whose records were accessed were notified and disciplinary action is being taken on the member who accessed their records.

Complaint #18

Description of Complaint: On August 21st^{(b) (6)} was notified that an encrypted email was sent with a patient's personal information to a staff member who was not authorized to receive such information on the individual.

Findings: The staff member who received the email was incorrectly sent the information due to his name being similar to the proper recipient's name. The staff member who did receive the information emailed the sender immediately and notified them of the error.

Disposition: Education on improved attention to detail.

Complaint #19

Description of Complaint: On August 16th ^{(b) (6)} was notified that a staff member sent an unencrypted email containing full social security numbers of six military personnel.

Findings: Email was sent to one individual.

Disposition: Conducted training on the use of encrypted email messages.

Agency Name: ^{(b) (6)}

Complaint #20

Description of Complaint: Complaint from patient that nurse faxed referral containing PII to patient's place of work.

Findings: Nurse tried to contact patient to provide referral. Patient worked the overnight shift and could not be reached during normal business hours. Nurse then sent referral containing PII data and name to patient's place of work. Fax was received by the patient's supervisor and placed in his office mailbox.

Disposition: Department Head of the nurse was notified who in-turn counseled and provided further training to the employee on HIPAA and PII.

Agency Name: ^{(b) (6)}

Complaint #21

Description of Complaint: Photos taken of patient injury on smart phone

Findings: Staff member took photos of patient unique injury with no identifiers

Disposition: Incident occurred in the Emergency Department. According to DH, photos were deleted by staff member while DH watched. Conducted additional HIPAA training on instructed proper procedures of requesting patient injury photos. Note: Complaint not initiated by patient, however, patient was contacted.

Complaint #22

ENCLOSURE 3

Hammond email thread of Wed, Oct 4, 2017 6:36 am to
(b) (6) Vice Admiral Clinton F. Faison and
Admiral Terry. J. Moulton (and others in that thread)

-----Original Message-----

From: (b) (6) @aol.com>
To: (b) (6) @mail.mil>
Cc: (b) (6) @mail.mil>; (b) (6) @mail.mil>

Sent: Wed, Oct 4, 2017 6:36 am

Subject: Re: FOIA Request DON-NAVY-2017-009256 Submitted

Dear Mr. (b) (6)

"Offices" are not people.

With respect, do you personally have knowledge of responsive records that existed at the time of my request that were not released?

With respect, do you personally have knowledge of responsive records that were destroyed subsequent to my request?

With respect, do you personally have knowledge of any Privacy Act Complaints that were not reported?

With respect, do you recall the details of our telephone conversations?

Thank you.

With my respect,

Robert Hammond

In a message dated 10/3/2017 8:35:46 AM Eastern Standard Time,
(b) (6) @mail.mil writes:

Mr. Hammond,

Good morning. After a thorough review of your FOIA request my office determined the files you requested for that particular time-frame were not managed by the BUMED M31 Privacy Office and we redirected your inquiry to BUMED Legal/FOIA for action. More recent Privacy Act Reports (those directed by Congressional Oversight via DoD and DON) have been assigned to BUMED's M31 Privacy Office for action; however, the oversight is still maintained by BUMED M00J Legal Office and any FOIA requests should be directed to Ms. Garcia first. The M31 Privacy Office has no concerns about your request for public interest files requiring disclosure under a FOIA request. Feel free to contact me if you have any HIPAA privacy related concerns or questions.

V/R,

(b) (6)

Privacy Program Office (Code: M31)
U.S. Navy Bureau of Medicine and Surgery (BUMED)

Detachment Jacksonville
H2005 Knight Lane, PO Box 140
NAS Jacksonville, FL 32212-0140

COMM: 904-542-3559 (New Office Number)

DSN: (b) (6)
Email: (b) (6)@mail.mil

UNCLASSIFIED DOCUMENT - For Official Use Only (FOUO). This document may contain information covered under the Privacy Act, 5 USE 552(a), and/or the Health insurance Portability and Accountability Act (PL 104-191) and its various implementing regulations and must be protected in accordance with those provisions. If you have received this correspondence in error, please notify the sender at once and destroy any copies you have made.

V/R,

(b) (6)

(b) (6)

Privacy Program Office (Code: M31)
U.S. Navy Bureau of Medicine and Surgery (BUMED)
Detachment Jacksonville
H2005 Knight Lane, PO Box 140
NAS Jacksonville, FL 32212-0140

COMM: 904-542-3559 (New Office Number)

DSN: (b) (6)
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-----Original Message-----

From: (b) (6)@aol.com [mailto:(b) (6)@aol.com]

Sent: Thursday, September 14, 2017 9:10 PM

To: (b) (6) CIV USN (US)

Cc: (b) (6) CIV USN BUMED FCH VA (US); Garcia, Della W CIV USN BUMED

FCH VA (US)

Subject: [Non-DoD Source] Re: Re: FOIA Request DON-NAVY-2017-009256 Submitted

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Dear Captain Meyers,

I received your interim reply indicating that you are gathering responsive records. Thank you.

My interest in seeking these records is very, very narrow. BUMED, Ms Garcia, Mr Martin, need not be concerned in that regard.

That said, while I am not anticipating any issues with BUMED's impending reply being a complete one, I am very mindful of some DOD FOIA practices. As a career naval officer, you would be aware of various avenues of redress. I would very much like to avoid any of that.

I am providing you below narrative information that I normally include in other FOIA requests, just so that you have it. I omitted this in my FOIA Request to BUMED, not anticipating then and still not anticipating any disputes.

Regarding judicial review, should that be necessary (along with sworn declarations), please consider, from the perspective of BUMED:

IMPACT OF IMPROPERLY WITHHOLDING RECORDS

Pursuant to FOIA:

"Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency

concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends." 5 U.S.C. § 552(a)(4)(F)(i).

DESTRUCTION, ALTERATION OR FALSIFICATION OF RECORDS

"Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both." 18 U.S. Code § 1519 - Destruction, alteration, or falsification of records.

PERJURY

Whoever-

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

18 U.S. C. § 1621 - Perjury generally (June 25, 1948, ch. 645, 62 Stat. 773 < Caution-
<http://uscode.house.gov/statviewer.htm?volume=62&page=773> > ; Pub. L. 88-619, §1, Oct. 3, 1964, 78 Stat. 995 < Caution-
<http://uscode.house.gov/statviewer.htm?volume=78&page=995> > ; Pub. L. 94-550, §2, Oct. 18, 1976, 90 Stat. 2534 < Caution-
<http://uscode.house.gov/statviewer.htm?volume=90&page=2534> > ; Pub. L. 103-322, title XXXIII, §330016(1)(I), Sept. 13, 1994, 108 Stat. 2147. < Caution-
<http://uscode.house.gov/statviewer.htm?volume=108&page=2147> >

Thank you.

With my respect,

Robert Hammond

In a message dated 9/7/2017 5:40:41 AM Eastern Standard Time,

(b) (6) @aol.com writes:

Dear Ms. Garcia, Mr. (b) (6)

As a polite reminder, my attached FOIA Request seeking FY 2013 Privacy Act Report submissions is now timely for judicial review.

In good faith, please promptly release all records that I am seeking without redaction. These records were all in the Agency's custody at the time of my request for them.

I am adding the Defense Privacy and Civil Liberties Office for information. Ms. Chin and Ms Allard have, to date, been very helpful in timely resolving such matters within DOD. There are also multiple avenues for redress.

Thank you.

Best...

With my respect,

Robert Hammond

Copy to: No others

In a message dated 8/31/2017 12:43:04 PM Eastern Standard Time,

(b) (6) @aol.com < Caution-mailto(b) (6) @aol.com > writes:

Dear Ms. Garcia,

To assist you in your timely review of the responsive records that are in your possession, there should be no redaction of information related to the report submitter. The names, phone numbers and email addresses of the Privacy Officers are posted on public web sites and in the public domain through countless correspondences and FOIA request-released records, which is also true for Agency FOIA Officers. Attached is one sample.

Also, all Privacy Act related records are required to be retained for six years.

Please contact me if you have any questions or if I may assist you further.

Thank you, again. Best...

With my respect,

Robert Hammond

From: (b) (6) @aol.com <Caution-mailto:(b) (6) @aol.com >
To: (b) (6) @mail.mil <Caution-mailto:(b) (6) @mail.mil >
Cc: (b) (6) @mail.mil <Caution-mailto:(b) (6) @mail.mil >
Sent: 8/27/2017 8:56:20 AM Eastern Standard Time
Subject: Re: RE: [Non-DoD Source] Fwd: FOIA Request DON-NAVY-2017-009256
Submitted

Dear Ms. Garcia,

I am following up on my request below.

The records that I am seeking were in the agency's possession at the time of my FOIA Request for them. My Request identifies the legal requirement to preserve such records and records of your searches for judicial review. This request will soon be timely for judicial review. As you know there are also other remedies for redress, if records are deleted.

Thank you so very much for your prompt consideration of my request.

With my respect,

Robert Hammond

In a message dated 8/9/2017 9:40:47 AM Eastern Standard Time,
(b) (6) @mail.mil <Caution-mailto:(b) (6) @mail.mil > writes:

Good morning. I have received your request and will process it as quickly as possible.

v/r Della

Della W. Garcia

FOIA/PA Paralegal Specialist Bureau of Medicine and Surgery Medical-Legal Affairs
Office 7700 Arlington Blvd Ste 5124 Falls Church, VA 22042-5124 COMM (b) (6)

(b) (6) @mail.mil FOR < Caution-
mailto:(b) (6) @mail.mil FOR > OFFICIAL USE ONLY (FOUO) -
PRIVACY SENSITIVE. Any misuse or unauthorized disclosure may result in both civil
and criminal penalties.-----Original Message-----From: (b) (6) @aol.com <
Caution-mailto:(b) (6) @aol.com > [Caution-
mailto:(b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com? >]
Sent: Tuesday, August 08, 2017 4:16 PM To: Garcia, Della W CIV USN BUMED FCH
VA (US) Cc: (b) (6) CIV USN BUMED FCH VA (US);

(b) (6) @aol.com Subject < Caution-
mailto:(b) (6) @aol.com Subject > : [Non-DoD Source] Fwd: FOIA Request
DON-NAVY-2017-009256 Submitted All active links contained in this email were
disabled. Please verify the identity of the sender, and confirm the authenticity of all links
contained within the message prior to copying and pasting the address to a Web
browser. Dear Ms Garcia, Please see the
FOIA online submission of this request, forwarded to Mr (b) (6) yesterday for cross-
reference to your files. Thank you in advance for your prompt consideration of my
request. Please let me know if there is any clarification or anything more that you need
from me. Thank you again. With my respect, Robert

Hammond From: DONFOIA-PA@navy.mil <
Caution-mailto:PA@navy.mil > To: (b) (6) @aol.com < Caution-
mailto:(b) (6) @aol.com > Sent: 8/7/2017 9:08:27 PM Eastern Standard
Time Subject: FOIA Request DON-NAVY-2017-009256 Submitted This message is to
confirm your request submission to the FOIA online application: View Request <
Caution-Caution-

<https://foiaonline.regulations.gov/443/foia/action/public/view/request?objectId=090004d2814dacd4> < Caution-

<https://foiaonline.regulations.gov/443/foia/action/public/view/request?objectId=090004d2814dacd4> > . Request information is as follows: * Tracking Number: DON-NAVY-

2017-009256 * Requester Name: robert hammond * Date Submitted: 08/07/2017 *
Request Status: Submitted * Description: (b) (6) Navy Bureau of Medicine and
Surgery (BUMED) (b) (6) @mail.mil < Caution-

mailto:(b) (6) @mail.mil > < Caution-Caution-
mailto:(b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil? > >

904-542-3559 Subject: FOIA Request – Component Input to BUMED; FY 2013
Quarterly Privacy Act Reports Requester Personal Reference Number: FOIA DON 17-D
References: (a) The Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., as
amended, (b) Joint publication of U.S. Department of Justice, Executive Office of the
President and U.S. General Services Administration of July 2011, "Your Right to
Federal Records" (c) The Privacy Act ("PA") of 1974, 5 U.S.C. § 552a, et seq., as
amended (d) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(e) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(f) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program (g) DoD
6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation (i) GAO Report
GAO-12-828 of July 2012, subject Freedom of Information Act (j) Department of Justice

Handbook for Agency Annual Freedom of Information Act Reports Dear Sir: I am submitting this request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., as amended. If you deny all or any part of this request, please cite each specific exemption you think justifies your decision not to release the information and notify me of appeal procedures available under the law. References cited above apply. This confirms my conversation with Mr. (b) (6) of today who is in possession of the records that I am seeking. Thank you, sir. BACKGROUND. Pursuant to 42 U.S.C. 2000ee-1, DOD submits Quarterly (now semi-annual) Privacy Reports to Congress. The DOD report is consolidated and submitted by the Defense Privacy and Civil Liberties Office (DPCLO). FY 2014 and later reports may be found at Caution-Caution-<http://dpcl.d.defense.gov/Reports/> < Caution-<http://dpcl.d.defense.gov/Reports/> > < Caution-Caution-<http://dpcl.d.defense.gov/Reports/> < Caution-<http://dpcl.d.defense.gov/Reports/> > > . RECORDS SOUGHT VIA FOIA. I am respectfully seeking all of the sub-unit/sub-element reports input subm

ENCLOSURE 4

Hammond email of Wed, Oct 4, 2017 3:26 pm to ODCMO
seeking policy guidance on Exemption 6, with copies to
Vice Admiral Clinton F. Faison (BUMED),
Admiral Terry. J. Moulton (BUMED),
Vice Admiral Rachael C. Bono (DHA) and
Mr. Guy. T. Kiyokowa (DHA) and others

-----Original Message-----

From: (b) (6) @aol.com>
To: (b) (6) @mail.mil>
Cc: (b) (6) @mail.mil>; (b) (6) @mail.mil>;
(b) (6) @mail.mil> (b) (6) @dha.mil>

Sent: Wed, Oct 4, 2017 3:26 pm

Subject: DOD Policy, Exemption 6. Also, Exemption 5 + FOIA/PA Reporting

Dear Ms. Allard,

First, thank you for all that you and your staff are doing WRT the integrity of the FOIA/PA processes and the accuracy of reporting. I appreciate it.

With my deep respect, I am seeking a policy determination from your office regarding DOD's interpretation of/policy for using the FOIA (b)(6) privacy exemption.

May I ask:

- Do the names of Agency's have privacy rights?
- Ordinary building names?
- Military Treatment Facility names?
- FOIA Officer names?
- Multi- function printer, copier, scanner, fax machines? This last rather odd issue came up recently WRT Walter Reed.

As you know, in a GAO audit requested by the Attorney General, DOD was singled out (along with three other federal agencies) regarding concerns over miss-use of this exemption, misuse the (b)(5) exemption and errant FOIA tracking and reporting to the Attorney General. For some time, DOJ required DOD to submit quarterly FOIA Reports and ODCMO required additional data.

As you know, I am concerned that many of these same errant practices that DOD promised to fix are still ongoing and that internal controls may be being overridden.

Still a DOJ/GAO concern.

With my deep respect,

Robert Hammond

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Tuesday, October 10, 2017 7:36 AM
To: Myers, Pamela A CAPT USN BUMED FCH VA (US)
Subject: FW: [Non-DoD Source] Re: DOD Policy, Exemption 6. Also, Exemption 5 + FOIA/PA Reporting

FYI...

v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste (b) (6)
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil

FOR OFFICIAL USE ONLY (FOUO) - PRIVACY SENSITIVE. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.

-----Original Message-----

From: (b) (6) CIV USN BUMED FCH VA (US)
Sent: Sunday, October 08, 2017 8:27 AM
To: Moulton, Terry J RADM USN BUMED FCH VA (US); Faison, C Forrest (Forrest) VADM USN BUMED FCH VA (US)
Cc: (b) (6) CIV USN BUMED FCH VA (US); Garcia, Della W CIV USN BUMED FCH VA (US)
Subject: Re: [Non-DoD Source] Re: DOD Policy, Exemption 6. Also, Exemption 5 + FOIA/PA Reporting

SG, DSG,

Good morning. I've added (b) (6) and our FOIA Officer, Ms. Garcia, for their awareness.

V/r,
(b) (6)
Sent from my iPhone

(b) (6)

On Oct 8, 2017, at 6:59 AM, "(b) (6) @aol.com" <(b) (6) @aol.com> wrote:

Dear Ms. Allard,

With my deep respect, I am seeking a further policy determination from your office regarding DOD's interpretation of/policy for using the FOIA (b)(6) privacy exemption.

First question, once records have been released through FOIA without redaction, can that very same information later be redacted under the FOIA (b)(6) privacy exemption?

Second question, does it make a difference if that very same information was released through FOIA without redaction both before and after one's request?

Third question, does it make a difference if the redacted information is the email addresses of FOIA Officers, FOIA responders and FOIA Office personnel contained in those emails?

Forth question, does it make a difference if the redacted information is the email addresses of Privacy Officers, Privacy Act Report responders and Privacy Office personnel contained in previously released emails?

Fifth and sixth questions, again, what about multi-function printer, copier, scanner, fax machines? WRT Walter Reed?

In the absence of a policy determination, the DOD agency responses become the DOD position in any further proceedings and venues.

I am concerned that use of the FOIA (b)(6) privacy exemption in such cases may (perhaps) be being used to cover up errant/false reporting to your office for consolidation in reports to the Attorney General of the United States and Congress. I don't know the motive. However, this would be a concern in a variety of venues.

Please also reinforce that all FOIA (b)(6), (b)(5) denials, etc., must be properly reported. That has been problematic. Also, please reinforce that "refusing to respond" to a FOIA request is not an appropriate option/response and that the applicable FOIA exemption, if any, must be cited. Also, what happens if a FOIA Officer may personally know that records exist within the agency/DOD and that FOIA Officer does not search for those records? What would be the consequences in various venues, particularly wrt my concern above? What if records are then deleted? What would DOD's position be? Others?

These are broad questions, applicable across the Department.

Please advise Ms. Chung and (through her) Mr. Tillotson of my concerns.

Still a DOJ/GAO concern. Congress also. Others.
With my deep respect and appreciation,

Robert Hammond

-----Original Message-----

From: (b) (6) @aol.com>

To: (b) (6) @mail.mil>

Cc: (b) (6) @mail.mil>; (b) (6) @mail.mil>;

(b) (6) @mail.mil>; (b) (6) @dha.mil>

Sent: Wed, Oct 4, 2017 3:26 pm

Subject: DOD Policy, Exemption 6. Also, Exemption 5 + FOIA/PA Reporting

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- Do the names of Agency's have privacy rights?
- Ordinary building names?
- Military Treatment Facility names?
- FOIA Officer names?
- Multi- function printer, copier, scanner, fax machines? This last rather odd issue came up recently WRT

Walter Reed.

As you know, in a GAO audit requested by the Attorney General, DOD was singled out (along with three other federal agencies) regarding concerns over misuse of this exemption, misuse the (b)(5) exemption and errant FOIA tracking and reporting to the Attorney General. For some time, DOJ required DOD to submit quarterly FOIA Reports and ODCMO required additional data.

As you know, I am concerned that many of these same errant practices that DOD promised to fix are still ongoing and that [promised] internal controls to prevent them may be being overridden.

Still a DOJ/GAO concern.

With my deep respect,

Robert Hammond

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Tuesday, October 10, 2017 7:37 AM
To: Myers, Pamella A CAPT USN BUMED FCH VA (US)
Subject: FW: [Non-DoD Source] Re: DOD Policy, Exemption 6. Also, Exemption 5 + FOIA/PA Reporting

FYI...

v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste (b) (6)
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil

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-----Original Message-----

From: Faison, C Forrest (Forrest) VADM USN BUMED FCH VA (US)
Sent: Sunday, October 08, 2017 8:39 AM
To: (b) (6) CIV USN BUMED FCH VA (US)
Cc: Moulton, Terry J RADM USN BUMED FCH VA (US); (b) (6) CIV USN BUMED FCH VA (US); Garcia, Della W CIV USN BUMED FCH VA (US)
Subject: Re: [Non-DoD Source] Re: DOD Policy, Exemption 6. Also, Exemption 5 + FOIA/PA Reporting

Thanks (b) (6)!

C. Forrest Faison III, M.D.
VADM MC USN
Surgeon General, U.S. Navy
Chief, Bureau of Medicine and Surgery

On Oct 8, 2017, at 08:26, (b) (6) CIV USN BUMED FCH VA (US) (b) (6) @mail.mil> wrote:

SG, DSG,

Good morning. I've added (b) (6) and our FOIA Officer, Ms. Garcia, for their awareness.

V/r,
(b) (6)

Sent from my iPhone

(b) (6)

On Oct 8, 2017, at 6:59 AM, (b) (6)@aol.com" (b) (6)@aol.com> wrote:

Dear Ms. Allard,

With my deep respect, I am seeking a further policy determination from your office regarding DOD's interpretation of/policy for using the FOIA (b)(6) privacy exemption.

First question, once records have been released through FOIA without redaction, can that very same information later be redacted under the FOIA (b)(6) privacy exemption?

Second question, does it make a difference if that very same information was released through FOIA without redaction both before and after one's request?

Third question, does it make a difference if the redacted information is the email addresses of FOIA Officers, FOIA responders and FOIA Office personnel contained in those emails?

Forth question, does it make a difference if the redacted information is the email addresses of Privacy Officers, Privacy Act Report responders and Privacy Office personnel contained in previously released emails?

Fifth and sixth questions, again, what about multi-function printer, copier, scanner, fax machines? WRT Walter Reed?

In the absence of a policy determination, the DOD agency responses become the DOD position in any further proceedings and venues.

I am concerned that use of the FOIA (b)(6) privacy exemption in such cases may (perhaps) be being used to cover up errant/false reporting to your office for consolidation in reports to the Attorney General of the United States and Congress. I don't know the motive. However, this would be a concern in a variety of venues.

Please also reinforce that all FOIA (b)(6), (b)(5) denials, etc., must be properly reported. That has been problematic. Also, please reinforce that "refusing to respond" to a FOIA request is not an appropriate option/response and that the applicable FOIA exemption, if any, must be cited. Also, what happens if a FOIA Officer may personally know that records exist within the agency/DOD and that FOIA Officer does not search for those records? What would be the consequences in various venues, particularly wrt my concern above? What if records are then deleted? What would DOD's position be? Others?

These are broad questions, applicable across the Department.

Please advise Ms. Chung and (through her) Mr. Tillotson of my concerns.

Still a DOJ/GAO concern. Congress also. Others.
With my deep respect and appreciation,

Robert Hammond

-----Original Message-----

From: (b) (6) @aol.com>

To: (b) (6) @mail.mil>

Cc: (b) (6) @mail.mil> (b) (6)

(b) (6) @mail.mil>; (b) (6) @mail.mil> (b) (6)

(b) (6) @dha.mil>

Sent: Wed, Oct 4, 2017 3:26 pm

Subject: DOD Policy, Exemption 6. Also, Exemption 5 + FOIA/PA Reporting

Dear Ms. Allard,

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May I ask:

- Do the names of Agency's have privacy rights?
- Ordinary building names?
- Military Treatment Facility names?
- FOIA Officer names?

Multi- function printer, copier, scanner, fax machines? This last rather odd issue came up recently
WRT Walter Reed.

As you know, in a GAO audit requested by the Attorney General, DOD was singled out (along with three other federal agencies) regarding concerns over misuse of this exemption, misuse the (b)(5) exemption and errant FOIA tracking and reporting to the Attorney General. For some time, DOJ required DOD to submit quarterly FOIA Reports and ODCMO required additional data.

As you know, I am concerned that many of these same errant practices that DOD promised to fix are still ongoing and that [promised] internal controls to prevent them may be being overridden.

Still a DOJ/GAO concern.

With my deep respect,

Robert Hammond

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Friday, September 29, 2017 9:12 AM
To: Myers, Pamela A CAPT USN BUMED FCH VA (US)
Subject: FW: [Non-DoD Source] BUMED False Reaporting? FOIA Fee Waiver Disposition Reached for DON-NAVY-2016-000246

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
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COMM (b) (6)

(b) (6) @mail.mil

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-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]
Sent: Thursday, September 28, 2017 3:34 PM
To: Faison, C Forrest (Forrest) VADM USN BUMED FCH VA (US); Moulton, Terry J RADM USN BUMED FCH VA (US); Chung, Joo Y SES OSD ODCMO (US); Allard, Cindy L CIV OSD ODCMO (US)
Cc: Tillotson, David III SES OSD ODCMO (US); Bono, Raquel C VADM USN DHA (US); (b) (6) @mail.mil; (b) (6) @dha.mil; (b) (6) @med.navy.mil; (b) (6) @mail.mil; (b) (6) @mail.mil; voiceofthecustomer@dha.mil
Subject: [Non-DoD Source] BUMED False Reaporting? FOIA Fee Waiver Disposition Reached for DON-NAVY-2016-000246

Dear Vice Admiral Faison, Rear Admiral Moulton, Ms. Chung, Ms. Allard,

With deep respect, please see the email below that I received today. From the perspective of the accuracy and integrity of BUMED, DON JAG, DON FOIA processes and reporting through DOD to the Attorney General of the United States - not good. Potentially premeditated. Gets worse.

I have similar concerns regarding the accuracy and integrity of BUMED/DON Privacy Act reporting through DOD to Congress.

Please address this as to the accuracy and integrity of the BUMED/DON FOIA process and reporting of this Request/Appeal and whether or not there is willful false reporting plus an attempt to cover up same. DOD has all records contained in my appeal, along with the DON JAG reply, which I may address later. Ugly.

Ms, Chung, Ms. Allard, this is a DoD matter. I will greatly appreciate knowing your findings.

With my deep respect,

Robert Hammond

CC: Multiple

From: (b) (6) @navy.mil

To: (b) (6) @aol.com

Sent: 9/28/2017 8:56:33 AM Eastern Standard Time

Subject: FOIA Fee Waiver Disposition Reached for DON-NAVY-2016-000246

Your request for Fee Waiver for the FOIA request DON-NAVY-2016-000246 has been partially granted with \$ 0.0 waived. Additional details for this request are as follows:

- * Request Created on: 10/14/2015
- * Fee Waiver Disposition Reason: This request is a partial grant and part denied
- * Request Long Description: THIS IS AN APPEAL, NOT A FOIA REQUEST. I am appealing my FOIA request of September 14, 2014 to BUMED (which is shown at page 12 of the attached PDF) seeking the Walter Reed National Military Medical Center (WRNMMC) Fiscal Year 2012 Annual FOIA Report Submission. Basis for Appeal. This request remains open and unanswered, and I have not been provided an FY 2014 case tracking number. Despite factually inaccurate assertions by Ms. Patterson in the attachment, BUMED has not provided a reply to this FOIA request, nor has there been any letter of referral to Walter Reed National Military Medical Center. No responsive documents have been provided. I am further asserting that my FOIA request was not included in the DON FY 2014 Annual FOIA Report Submission to the Attorney General, nor has it been included in the FY 2015 submission. As shown in the attachment, DON is aware that this FOIA request has not been included in its Annual FOIA Report submission. Please address this matter in your response to my appeal.

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Tuesday, October 10, 2017 7:40 AM
To: Myers, Pamela A CAPT USN BUMED FCH VA (US)
Subject: FW: [Non-DoD Source] Re: BUMED False Reporting?

FYI...

v/r Della

Della W. Garcia
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-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]
Sent: Friday, October 06, 2017 3:39 PM
To: Faison, C Forrest (Forrest) VADM USN BUMED FCH VA (US); Moulton, Terry J RADM USN BUMED FCH VA (US)
Cc: Allard, Cindy L CIV OSD ODCMO (US)
Subject: [Non-DoD Source] Re: BUMED False Reporting?

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Dear Vice Admiral Faison,

With my deep respect, regarding the question of whether not BUMED reported my 2014 FOIA request seeking Walter Reed's FY 2012 Annual FOIA Reports in BUMED's and DON's FY 2014 and FY 2015 Annual FOIA Reports, I had already advised ODCMO staff that I already know the answer through publically available records and emails. Further, that it doesn't take a team of lawyers to answer the simple yes/no question and that I do not need a reply. But, ODCMO does.

Mr. Tillotson is ultimately responsible for ensuring the accuracy of reporting and the integrity of the FOIA processes within DOD.

I subsequently received a letter from your senior legal staff declining to address that question. Also, Mr. Lattin, DON JAG, (improperly) included that matter in an unrelated FOIA appeal (which will therefore carry that matter forward in any subsequent proceedings involving DOD). Mr. Lattin's irrelevant page-long discourse discussing the electronic Administrative appeal system has nothing whatsoever to do with whether or not BUMED & DON failed to report the underlying FOIA request and what actions BUMED took or did not take, having been notified in advance of FY 2014 closure and thereafter. Mr. Lattin's answer will fail in any venue.

Please ask your staff for the facts and relevant correspondence. Please advise Mr. Tillotson or his staff of your findings (yes/no), along with what actions, if any, BUMED is taking.

Thank you.

With my deep respect,

Robert Hammond

cc: Multiple

-----Original Message-----

From: (b) (6) @aol.com>

To: (b) (6) @mail.mil>; (b) (6) @mail.mil>;

(b) (6) @mail.mil> (b) (6) @mail.mil>; (b) (6)

(b) (6) @mail.mil>

Cc: (b) (6) @mail.mil>; (b) (6) @mail.mil>; (b) (6)

<(b) (6) @mail.mil>; (b) (6) @med.navy.mil>; (b) (6)

<(b) (6) @mail.mil>; (b) (6) @mail.mil>; voiceofthecustomer

<voiceofthecustomer@dha.mil>; (b) (6) @dha.mil>

Sent: Sat, Sep 30, 2017 8:46 am

Subject: Re: BUMED False Reaporting? FOIA Fee Waiver Disposition Reached for DON-NAVY-2016-000246

Dear Vice Admiral Faison, Vice Admiral Bono, Rear Admiral Moulton, Ms. Chung, Ms. Allard, As a point of clarification, the accuracy of reporting to this request was not resolved by the administrative appeal below. Perhaps it will be accurately documented now.

In his November 16, 2015 final determination letter, Mr. Grant E. Lattin, DON JAG, stated, "You appeal the non-response of the Navy Bureau of Medicine and Surgery (BUMED) to your September 21, 2014 request for all information they received from Walter Reed National Military Medical Center (WRNMMC) with regard to the Fiscal Year 2012 FOIA Report...BUMED was not able to locate a response to your September 21, 2014 request."

Regarding, whether or not my FOIA Request had been reported and entered into previous Fiscal Year Reports or if such reports should be amended, Mr. Lattin, stated that no action would be taken... that I had no right to ask... that the agency had no requirement to respond.

This followed a 7 Jan 15 letter (Ser DNS-36JP/15U105010), from Ms. Robin L. Paterson (OPNAV DNS 36 (DON FOIA/PA)) - that included BUMED, DHA, Walter Reed, Defense FOIA Policy Office - in which Ms. Patterson states, "BUMED indicated that their offices have no record of a FOIA Annual Report submission from WRNMMC since Fiscal Year 2009." In doubt, I sought through FOIA and obtained from Ms. Patterson, the "Fiscal Year 2012 Subcomponent/Component or Agency" addendum supporting her FY 2012 Annual Report. That addendum shows National Naval Medical Center as the first subcomponent under BUMED.

In partially granting my appeal, Mr. Lattin released Walter Reed's FY 2012 Annual FOIA Report submission to BUMED that Walter Reed had forwarded as an attachment to BUMED in an October 01, 2012 3:09PM email. BUMED had the records all along.

I thought then, and still believe, that WRNMMC, BUMED, DON FOIA/PA, DHA did not want me to have those records. Why? These records are required by DOJ to be made publicly available, allowing requesters to see how - or even if - their requests and appeals are being reported to the Attorney General of the United States. Accurate reporting is the cornerstone of accountability.

Also, in my appeal package, you will find discussion relating to an appeal of a FOIA request that Walter Reed had improperly denied claiming that I had not offered to pay, even though the request clearly offers to pay \$200. By that unethical action any FOIA request could be denied. DON JAG sustained the appeal. Ms. Patterson interjected that matter into her letter.

Through OGIS, I sought only the basis of denial of that request as DON JAG and Walter Reed had reported it in their Annual FOIA Reports. Rather than answer that question, Mr. Lattin proclaimed that he was prepared to defend his decision in court. I felt that response was arrogant. DON JAG ultimately conceded that I "was improperly advised," but did not disclose the basis for denial. Long story short, I sought DON JAG's Appeals Processing Log via FOIA, which, although heavily and improperly redacted, shows that DON JAG had not reported that appeal denial along with others. As I recall, there is a critical performance element for Mr. Lattin's position related to the accuracy of the FOIA/Appeals Logs.

In over 40 years of serving DOD, it is my experience that by-in-large, FOIA/Privacy Officers are good and decent people trying to do a good job. Decisions are typically made by management, following legal review, sometimes placing those at the bottom rung, leadership and the Department in peril.

When will this all end? What will it take? These are easy audits.

In my view, integrity matters; accountability begins at the top; leadership is key.

This is a DOD matter.

I am asking for your help.

That said, I am open to considering timely, reasonable mediation with DOD regarding some records that I am currently seeking.

Thank you.

With my deep respect,

Robert Hammond

In a message dated 9/28/2017 3:33:45 PM Eastern Standard Time, (b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com > writes:

Dear Vice Admiral Faison, Rear Admiral Moulton, Ms. Chung, Ms. Allard,

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Robert Hammond

CC: Multiple

From: (b) (6) @navy.mil < Caution-mailto:(b) (6) @navy.mil >
To: (b) (6) @aol.com < Caution-mailto:(b) (6) @aol.com >
Sent: 9/28/2017 8:56:33 AM Eastern Standard Time
Subject: FOIA Fee Waiver Disposition Reached for DON-NAVY-2016-000246

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Subject: FW: [Non-DoD Source] Re: DOD Policy, Exemption 6. Also, Exemption 5 + FOIA/PA Reporting

FYI...

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Sent: Sunday, October 08, 2017 6:59 AM
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Cc: Faison, C Forrest (Forrest) VADM USN BUMED FCH VA (US); Moulton, Terry J RADM USN BUMED FCH VA (US); Bono, Raquel C VADM USN DHA (US) (b) (6) @dha.mil
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These are broad questions, applicable across the Department.

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Still a DOJ/GAO concern. Congress also. Others.
With my deep respect and appreciation,

Robert Hammond

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(b) (6) @mail.mil>; (b) (6) @dha.mil>

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Subject: DOD Policy, Exemption 6. Also, Exemption 5 + FOIA/PA Reporting

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- Ordinary building names?
- Military Treatment Facility names?
- FOIA Officer names?
- Multi- function printer, copier, scanner, fax machines? This last rather odd issue came up recently WRT Walter Reed.

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With my deep respect,

Robert Hammond

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Tuesday, October 10, 2017 7:42 AM
To: Myers, Pamella A CAPT USN BUMED FCH VA (US)
Subject: FW: [Non-DoD Source] Exemption (b)(5)
Attachments: BUMED reply to DON-NAVY-2016-000246.pdf

FYI...

v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
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Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil

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Sent: Sunday, October 08, 2017 7:34 AM
To: (b) (6) CIV USN (US)
Cc: Garcia, Della W CIV USN BUMED FCH VA (US); (b) (6) CIV USN BUMED FCH VA (US); Faison, C Forrest (Forrest) VADM USN BUMED FCH VA (US); Moulton, Terry J RADM USN BUMED FCH VA (US); Patterson, Robin W CIV USN CNO (US)
Subject: [Non-DoD Source] Exemption (b)(5)

Dear Captain Meyers,

I received your letter of October 3, 2017 regarding case DON-NAVY-2016-000246 (attached). Water under the bridge. Moot point, I hope.

With respect, the correct response to matters in litigation is Exemption (b)(5), which is limited. I do not think that it applies in any relevant context.

Please read it carefully. If you think that it applies to any other requests beyond DON-NAVY-2016-000246, consider the consequences for everyone (including DOD) in all venues, cite it, report it, stand by for further action.

Broadly speaking, past mistakes should and can easily be corrected... if not repeated. Water under the bridge. Preferred approach.

Also, you may not respond on behalf of the Department of Navy in your current capacity. Exceeds your authority.

Thank you.

With my respect,
Robert Hammond



DEPARTMENT OF THE NAVY
BUREAU OF MEDICINE AND SURGERY
7700 ARLINGTON BOULEVARD
FALLS CHURCH, VA 22042

IN REPLY REFER TO

5720

Ser M00JE/17UM00J0217

October 3, 2017

Mr. Robert Hammond

(b) (6)

Dear Mr. Hammond,

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST – DON NAVY 2016-000246

Thank you for your emails of September 28, 2017 and September 30, 2017, both with the subject line of "BUMED False Reporting? FOIA Fee Waiver Disposition Reached for DON-NAVY-2016-000246".

I have been advised that your FOIA request related to the above identified emails is in active litigation; therefore, the Department of the Navy will not be responding separately.

Should you have questions that BUMED may assist you with, my point of contact remains Ms. Della W. Garcia. Ms. Garcia may be contacted at (b) (6) @mail.mil or by telephone at

(b) (6)

Sincerely,

P. A. MYERS

Captain

Judge Advocate General's Corps

United States Navy

Staff Judge Advocate

By direction of the Chief,

Bureau of Medicine and Surgery

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Tuesday, October 10, 2017 7:44 AM
To: Myers, Pamela A CAPT USN BUMED FCH VA (US)
Subject: FW: [Non-DoD Source] FOIA DON-NAVY-2017-010608: FY 2013 Quarterly FOIA Reports Emails, etc.
Attachments: Appeal DON 17-A FY 2013 Quarterly FOIA Report SOP and Emails with enclosure (1).pdf; Hammond 2017-010608 final ltr (1).pdf

FYI...

v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste (b) (6)
Falls Church, VA 22042-5124

COMM (b) (6)

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-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]
Sent: Sunday, October 08, 2017 8:23 AM
To: Patterson, Robin W CIV USN CNO (US); Garcia, Della W CIV USN BUMED FCH VA (US)
Subject: [Non-DoD Source] FOIA DON-NAVY-2017-010608: FY 2013 Quarterly FOIA Reports Emails, etc.

Dear Ms. Patterson and Ms. Garcia,
The attached DON JAG remand gives you a second chance to do the right thing and move on. Excellent news!
Please appropriately address all five matters in the DON final determination letter.
Please review my initial FOIA request, search for and provide All responsive records for my request without redaction.
For information, with regard to the appeal final determination, "First issue," please see page 15 of my appeal, which is an email entitled FY13 1st FOIA Quarterly Report, sent to:
'DONFOIA-PA'; Patterson, Robin L CIV OPNAV, DNS-36
Cc: Garcia, Della W. GS BUMED
Once again, please preserve all correspondence and records of your searches in your complete FOIA case file.
Thank you so much.
With my respect,
Robert Hammond
cc: None

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Tuesday, October 10, 2017 11:31 AM
To: Myers, Pamella A CAPT USN BUMED FCH VA (US)
Subject: FW: [Non-DoD Source] Re: DOD Policy, Exemption 6. Also, Exemption 5 + FOIA/PA Reporting

FYI...
v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste (b) (6)
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil

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-----Original Message-----

From: Faison, C Forrest (Forrest) VADM USN BUMED FCH VA (US)
Sent: Sunday, October 08, 2017 8:39 AM
To: (b) (6) CIV USN BUMED FCH VA (US)
Cc: Moulton, Terry J RADM USN BUMED FCH VA (US); (b) (6) CIV USN BUMED FCH VA (US); Garcia, Della W CIV USN BUMED FCH VA (US)
Subject: Re: [Non-DoD Source] Re: DOD Policy, Exemption 6. Also, Exemption 5 + FOIA/PA Reporting

Thanks Ilkal

C. Forrest Faison III, M.D.
VADM MC USN
Surgeon General, U.S. Navy
Chief, Bureau of Medicine and Surgery

On Oct 8, 2017, at 08:26, (b) (6) CIV USN BUMED FCH VA (US) <(b) (6) @mail.mil> wrote:

SG, DSG,

Good morning. I've added (b) (6) and our FOIA Officer, Ms. Garcia, for their awareness.

V/r,

(b) (6)

Sent from my iPhone

(b) (6)

On Oct 8, 2017, at 6:59 AM, "(b) (6)"@aol.com" <(b) (6)"@aol.com> wrote:

Dear Ms. Allard,

With my deep respect, I am seeking a further policy determination from your office regarding DOD's interpretation of/policy for using the FOIA (b)(6) privacy exemption.

First question, once records have been released through FOIA without redaction, can that very same information later be redacted under the FOIA (b)(6) privacy exemption?

Second question, does it make a difference if that very same information was released through FOIA without redaction both before and after one's request?

Third question, does it make a difference if the redacted information is the email addresses of FOIA Officers, FOIA responders and FOIA Office personnel contained in those emails?

Forth question, does it make a difference if the redacted information is the email addresses of Privacy Officers, Privacy Act Report responders and Privacy Office personnel contained in previously released emails?

Fifth and sixth questions, again, what about multi-function printer, copier, scanner, fax machines? WRT Walter Reed?

In the absence of a policy determination, the DOD agency responses become the DOD position in any further proceedings and venues.

I am concerned that use of the FOIA (b)(6) privacy exemption in such cases may (perhaps) be being used to cover up errant/false reporting to your office for consolidation in reports to the Attorney General of the United States and Congress. I don't know the motive. However, this would be a concern in a variety of venues.

Please also reinforce that all FOIA (b)(6), (b)(5) denials, etc., must be properly reported. That has been problematic. Also, please reinforce that "refusing to respond" to a FOIA request is not an appropriate option/response and that the applicable FOIA exemption, if any, must be cited. Also, what happens if a FOIA Officer may personally know that records exist within the agency/DOD and that FOIA Officer does not search for those records? What would be the consequences in various venues, particularly wrt my concern above? What if records are then deleted? What would DOD's position be? Others?

These are broad questions, applicable across the Department.

Please advise Ms. Chung and (through her) Mr. Tillotson of my concerns.

Still a DOJ/GAO concern. Congress also. Others.
With my deep respect and appreciation,

Robert Hammond

-----Original Message-----

From: (b) (6) @aol.com>

To: (b) (6) @mail.mil>

Cc: (b) (6) @mail.mil>; (b) (6)

(b) (6) @mail.mil>; (b) (6) @mail.mil>; (b) (6) @dha.mil>

Sent: Wed, Oct 4, 2017 3:26 pm

Subject: DOD Policy, Exemption 6. Also, Exemption 5 + FOIA/PA Reporting

Dear Ms. Allard,

First, thank you for all that you and your staff are doing WRT the integrity of the FOIA/PA processes and the accuracy of reporting. I appreciate it.

With my deep respect, I am seeking a policy determination from your office regarding DOD's interpretation of/policy for using the FOIA (b)(6) privacy exemption.

May I ask:

- Do the names of Agency's have privacy rights?
- Ordinary building names?
- Military Treatment Facility names?
- FOIA Officer names?
- Multi- function printer, copier, scanner, fax machines? This last rather odd issue came up recently

WRT Walter Reed.

As you know, in a GAO audit requested by the Attorney General, DOD was singled out (along with three other federal agencies) regarding concerns over misuse of this exemption, misuse the (b)(5) exemption and errant FOIA tracking and reporting to the Attorney General. For some time, DOJ required DOD to submit quarterly FOIA Reports and ODCMO required additional data.

As you know, I am concerned that many of these same errant practices that DOD promised to fix are still ongoing and that [promised] internal controls to prevent them may be being overridden.

Still a DOJ/GAO concern.

With my deep respect,

Robert Hammond

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Thursday, October 19, 2017 1:16 PM
To: 'Winston, Wendy A CIV OJAG, CODE 14'
Cc: Inch, Adam E LCDR USN NAVCIVLAWSUPPACT DC (US)
Subject: RE: FOIA Appeal ICO Mr. Robert Hammond DON-NAVY-2018-000111

Good afternoon.

I have forwarded the requested documentation to you at (b) (6)@navy.mil via AMRDEC.

Please let me know if you need anything else.

v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste (b) (6)
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6)@mail.mil

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-----Original Message-----

From: Winston, Wendy A CIV OJAG, CODE 14 [mailto:(b) (6)@navy.mil]
Sent: Thursday, October 05, 2017 2:40 PM
To: Garcia, Della W CIV USN BUMED FCH VA (US)
Cc: Inch, Adam E LCDR USN NAVCIVLAWSUPPACT DC (US)
Subject: FOIA Appeal ICO Mr. Robert Hammond DON-NAVY-2018-000111

Good Afternoon,

We just received a FOIA appeal from Mr. Robert Hammond; original request number DON-NAVY-2017-009256 (F17-073). Could you please provide to us, by 19 Oct 2017.

- 1) A brief memo justifying the withholding of responsive information also include the search that was conducted.
- 2) A copy of any correspondence between your command and the requester (both emails and written correspondence).
- 3) A copy of all responsive records redacted and unredacted.

Thank you and have a great day!

Very respectfully,

Wendy A. Winston
Paralegal Specialist (FOIA/PA) Coordinator
Office of the Judge Advocate General
General Litigation Division (Code 14)
1322 Patterson Avenue, SE, STE 3000
Washington Navy Yard, DC 20374

TEL: (b) (6)
DSN: (b) (6)

Garcia, Della W CIV USN BUMED FCH VA (US)

From: Garcia, Della W CIV USN BUMED FCH VA (US)
Sent: Thursday, October 05, 2017 3:28 PM
To: 'Winston, Wendy A CIV OJAG, CODE 14'
Cc: Inch, Adam E LCDR USN NAVCIVLAWSUPPACT DC (US); Myers, Pamella A CAPT USN BUMED FCH VA (US)
Subject: RE: FOIA Appeal ICO Mr. Robert Hammond DON-NAVY-2018-000111

Good afternoon.

I received your email and will get the items to you as quickly as possible--certainly by the 19th.

In the meantime, please give me a call at the number below or on my cell at (b) (6) if you need anything else.

v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste (b) (6)
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil

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-----Original Message-----

From: Winston, Wendy A CIV OJAG, CODE 14 [mailto:(b) (6)@navy.mil]
Sent: Thursday, October 05, 2017 2:40 PM
To: Garcia, Della W CIV USN BUMED FCH VA (US)
Cc: Inch, Adam E LCDR USN NAVCIVLAWSUPPACT DC (US)
Subject: FOIA Appeal ICO Mr. Robert Hammond DON-NAVY-2018-000111

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Thank you and have a great day!

Very respectfully,

Wendy A. Winston
Paralegal Specialist (FOIA/PA) Coordinator
Office of the Judge Advocate General
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Washington Navy Yard, DC 20374

TEL: (b) (6)
DSN: (b) (6)